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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,136	09/26/2003	Lalitha Vaidyanathan	1018-001US03	6107
28863	7590	11/30/2006	EXAMINER	
SHUMAKER & SIEFFERT, P. A. 8425 SEASONS PARKWAY SUITE 105 ST. PAUL, MN 55125			MOONEYHAM, JANICE A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 11/30/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/672,136
Filing Date: September 26, 2003
Appellant(s): VAIDYANATHAN ET AL.

Kent J. Sieffert
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 14, 2006 appealing from the Office action mailed February 16, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

This application is a continuation of and claims priority to Application No. 09/504,159, is also on appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0007362

Collins et al.

1-2002

www.truste.com retrieved from the Internet Archive Wayback Machine

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 49-73 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claims 49 and 58 the appellant is claiming a system and method, comprising:

Providing an online dispute resolution system electronically coupled to an electronic marketplace that provides a website by which users buy and sell items, ***wherein the electronic marketplace includes a database that stores transaction data that describes transactions within the marketplace;***

electronically receiving with the online dispute resolution system at least a portion of the transaction data from the database of the electronic marketplace in response to initiation of a dispute;

utilizing the received portion of the transaction data in accordance with a dispute resolution process to assist the users in resolving disputes relating to the transactions within the electronic marketplace.

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In claims 51 and 60, the appellant claims a method and system that ***automatically*** initiates enrollment of the sellers within the dispute resolution system in response to the request.

In claim 52, the appellant claims a method and system wherein ***the online dispute resolution system electronically communicates the status information to a database of the electronic marketplace.***

In claim 53, the appellant claims the online dispute resolution system further comprising a server ***to service electronic requests issued by a server within the electronic marketplace to exchange data between the online dispute resolution system and the electronic marketplace.***

In claim 54, the appellant claims a data manager software application to ***automatically communicate data between a database of the online dispute resolution system and a database of the electronic marketplace.***

In claim 55, appellant claims ***the dispute resolution system electronically communicating rating data from a database of the online dispute resolution system to a database of the electronic marketplace.***

In claim 61, the appellant claims a method comprising electronically communicating data that relates to the online dispute resolution process ***to the database of the electronic marketplace, and updating the electronic marketplace based on the data received from the dispute resolution system.***

In claims 49 and 63, the appellant claims ***without manually entering the transaction data into the dispute resolution system.***

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Claim 62 claims that the indicia is received from the dispute resolution system for the users ***in response to resolution of the disputes.***

In claim 65, the appellant claims ***receiving with the online dispute resolution system an electronic query from the electronic marketplace and electronically providing a status associated*** with one of the users from a database of the online dispute resolution system ***to the database of the electronic marketplace*** in response to the query.

In claim 66, the appellant claims a ***software application to automatically communicate transaction data from a database of the electronic marketplace to a database in the system in response to a transaction within the electronic marketplace.***

In claim 67 the appellant claims wherein the electronic marketplace stores transaction data that describes transactions within the marketplace and automatically communicating the transaction data stored to the online dispute resolution system without human intervention in response to initiation of a dispute; and utilizing the transaction data in accordance with a dispute resolution process to assist the users in resolving disputes relating to the transactions within the electronic marketplace.

In claims 49 and 68 appellant claims ***storing transaction data in an electronic marketplace, wherein the transaction data describes the transaction within the electronic marketplace,*** receiving case information with an online dispute resolution system, wherein the case information describes a dispute related to one of the transactions of the electronic marketplace, ***automatically communicating at least a***

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portion of the transaction data related to the dispute from the electronic marketplace to the online dispute resolution system without manual intervention and executing a dispute resolution process with the online dispute resolution system ***that utilizes the transaction data from the electronic marketplace*** and the case information from the parties to assist the users in resolving the dispute.

In claim 69, appellant claims ***storing transaction data in a database of an electronic marketplace, wherein the transaction data describes transactions with the electronic marketplace, receiving case information with an online dispute resolution system from one or more parties, where the case information describes a dispute related to one of the transaction of the electronic marketplace and executing a dispute resolution process with the online dispute resolution system that receives at least a portion of the transaction data stored from the database of the electronic marketplace without human intervention in response to initiation of the dispute and uses the received portion of the transaction data*** and the case information from the parties to assist the parties in resolving the dispute.

In claim 70, the appellant claims ***an electronic marketplace system including a database and software object that automatically communicates transaction data from the database to the online dispute resolution system when transactions within the electronic marketplace are performed by members of the online dispute system, wherein the online dispute resolution system executes a dispute resolution process that utilizes the transaction data and the dispute information to assist the parties in resolving the dispute.***

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In claim 71, the appellant claims ***an electronic marketplace system including a database that stores transaction data that describe transactions for buyers and sellers, a software object executing the electronic marketplace system that automatically communicates the transaction data from the database to the online dispute resolution system without human intervention in response to initiation of a dispute***, and a software object executing within the electronic marketplace system that ***queries the database of the online dispute resolution system for status for at least one user of the electronic marketplace system.***

In claim 72, the appellant claims an online dispute resolution system having at least one server that communicates ***with a database of an electronic marketplace system without human intervention in response to initiation of a dispute.***

Appellant has added claim 73. This claim is directed to a system comprising and online dispute resolution system that executes a dispute resolution process; and

an electronic marketplace system that includes:

a web server that provides a centralized trading place for a plurality of buyers and a plurality of sellers;

a database that stores data, and

a software object that communicates the data from the database to the online dispute resolution system to inform the dispute resolution system of transactions performed by the plurality of buyers and the plurality of sellers.

The appellant amended the claims and added new claims in the amendment filed on May 18, 2005 and in the amendment filed on November 28, 2005. The appellant states that no new matter has been added by the new claim and the new claim limitations and support for the new claims can be found throughout the present specification, including for example, [0046]-[0048]. The Examiner has reviewed these sections and does not find support for the many of the limitations.

The Examiner is unable to find support for the italicized portions of the claim language in the original disclosure. The applicant directs the Examiner to the following paragraphs in the specification:

[0046] Referring now to FIG. 2B, a second implementation 150 of the dispute resolution system is shown. In this implementation, a customer (which can be either the seller or the buyer) or a dispute resolution specialist can access data using a web browser on a workstation 152. The data is securely transferred between the workstation 152 to a network 154. The network 154 can be the Internet or can be an intranet. A server 156 communicates with the network 154. The server 156 also communicates with a second server 158, which can be an e-commerce server such as the ColdFusion server, available from Allaire Inc. The server 158 is used as a Web Application Server to present HTML applications. These applications allow customers to file and manage disputes and dispute resolution specialists to manage cases over the Internet.

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will transparently deal with communication issues including server unavailability and performance. Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.

[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a data manager

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162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

The Examiner request that the appellant specifically direct the Examiner to the portions of the specification where there is support for this claim language. For example, where is there support for the online dispute resolution system electronically receiving at least a portion of the transaction data stored within the electronic marketplace ***without requiring manual entry of the transaction data*** ? Where is there support for the ***database of the electronic marketplace*** or ***wherein the electronic marketplace includes a database that stores transaction data that describes transactions within the marketplace?***

Where in the disclosure is there support for an electronic marketplace system as now defined by the appellant as a web server that provides a centralized trading place for a plurality of buyers and sellers with a database that stores data and a software object that communicates the data from the database to the online dispute resolution system? The Examiner has performed a text search on the specification as originally disclosed and the only definition of the marketplace is in paragraph [0039] which identifies the marketplace 106 as a physical mall or market or a website such as an online centralized trading place. The appellant states that one exemplary person-to-person trading place on the Internet is eBay, located at www.eBay.com. EBay is a web-based community in which buyers and sellers are brought together in an efficient auction format to buy and sell items. Where is the marketplace database identified and

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where is there disclosure that this database stores transaction data without requiring manual entry of the transaction data or that transaction data is communicated from the database to the online dispute resolution system without human intervention in response to initiation of a dispute?

Where in the disclosure does the appellant disclose a database (160) as shown in Figure 1b of the Collins reference or where does the appellant disclose Party B having an attached database and that Party B is a merchant and the database is for maintaining records concerning customers?

Where is the disclosure for embedding uniform resource locators associated with the dispute resolution system within a hypertext markup language application for the website of the electronic marketplace ***to enable the users of the electronic marketplace to automatically access the dispute resolution system from the electronic marketplace without manually entering the transaction data into the dispute resolution system?*** It appears that the hotlink is to the registration form.

Where is it disclosed that the online dispute resolution system comprises a membership profile database and that the status is provided by the online dispute resolution system ***to a database of the electronic marketplace?***

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the appellant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the appellant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 49-61 and 64-73 are rejected under 35 U.S.C. 102(e) as being anticipated by Collins et al (US 2002/0007362) (hereinafter referred to as Collins).

Referring to Claims 49, 52-58 and 64:

Collins discloses method and system, comprising:

providing an online dispute resolution system (*Figure 7b Welcome to DISPUTE RESOLUTION, INC; [0004-0005] method and system for facilitating agreement pertaining to a situation over a network; [0037]*) comprising a server (*Figures 1a and 1b (120)*), a data manager software application for communicating data between databases (*col. 8, claim 9 a computer program product for use on a computer system for facilitating agreement comprising code for receiving data, storing data, and retrieving data*) and least one database (*Figures 1a and 1b (140) (160)*), the online dispute resolution system electronically coupled to an electronic marketplace that provides a website by which users buy and sell items (*(Figure 1b and [0045] Party B is a merchant that maintains records concerning customers; [0039] a customer may have a dispute with a merchant. The dispute may arise in connection with a transaction occurring over the Internet; [0047] if the method is used for dispute resolution in connection with goods sold by a merchant over the Internet)*), wherein the electronic marketplace includes a database that stores transaction data that describes transactions within the marketplace (*Figure 1b (160) [0045] Party B has an attached database 160. Party B is a merchant*

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that maintains records concerning customers. Data which may be maintained includes the number of transaction that the customer has had with the merchant, the amount of merchandise purchased, an associated rating of the customer and any other data perceived of as pertinent by the merchant concerning the customer);

electronically receiving with the online dispute resolution system at least a portion of the transaction data from the database of the electronic marketplace in response to initiation of a dispute ([0045] *the associated rating of the customer provides a mechanism for the corresponding server process to select the level that the customer should begin resolution; the server process, having data concerning the customer as provided by the merchant's database, would grant the customer's request base upon the rating; also see [0047]);*

utilizing the received portion of the transaction data in accordance with a dispute resolution process to assist the users in resolving disputes relating to the transactions within the electronic marketplace ([0045] *if the customer has a high rating which indicates the loyalty of the customer as represented by the number, volume, or value of purchases the merchant may wish to bypass the computer negotiation phase and move directly to level two or three. Additionally, this customer rating may allow the customer with a high rating to select the resolution mechanism; also see [0047]).*

The type of data being transmitted is considered to be non-functional descriptive data not interrelated with the useful structure of the system and thus will not serve as a limitation. This descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F. 2d. 1381, 1385, 217 USPQ

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401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F. 3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994).

Referring to Claims 50 and 59:

Collins discloses electronically receiving with the online dispute resolution system communications from the users of the electronic marketplace to initiate filing of disputes; and initiating the online dispute resolution process in response to the communications (*Figures 2 and 3 and [0046-0047] Figure 2 (300) initialization or registration stage; (400) issue definition and clarification*).

Referring to Claims 51 and 60:

Collins electronically receiving with the online dispute resolution system enrollment requests from the sellers of the marketplace and initiating enrollment of the sellers within the dispute resolution system in response to the requests (*Figure 7a and 7b and [0054] and [0061] terms and conditions of use may be supplied to the first party; if party indicates agreement, registration data is obtained and [0046] a registration stage; [0047] an eligibility determination stage*).

Referring to Claim 61:

Collins discloses a method further comprising electronically communicating data that relates to the online dispute resolution process to the electronic marketplace and updating the electronic marketplace based on the data received from the dispute resolution system (*[0042] A initiates negotiation by contacting the central server 120 and providing data to the server concerning the situation; Party B is contacted and*

sends position data over the network to the central server; Based on information provided, server generates zone of possible agreement and renders it to the parties).

Referring to Claim 65:

Collins discloses a method comprising the online dispute resolution system receiving a query and electronically providing a status associated with the user ([0047] *Eligibility status*).

Referring to Claims 66 and 67:

Collins discloses a method and system, comprising:

providing an online dispute resolution system (*Figure 7b Welcome to DISPUTE RESOLUTION, INC; [0004-0005] method and system for facilitating agreement pertaining to a situation over a network; [0037]*) comprising a server (*Figures 1a and 1b (120)*), a data manager software application for communicating data between databases (*col. 8, claim 9 a computer program product for use on a computer system for facilitating agreement comprising code for receiving data, storing data, and retrieving data*) and least one database (*Figures 1a and 1b (140) (160)*), the online dispute resolution system electronically coupled to an electronic marketplace that provides a website by which users buy and sell items (*(Figure 1b and [0045] Party B is a merchant that maintains records concerning customers; [0039] a customer may have a dispute with a merchant. The dispute may arise in connection with a transaction occurring over the Internet; [0047] if the method is used for dispute resolution in connection with goods sold by a merchant over the Internet)*), wherein the electronic marketplace includes a database that stores transaction data that describes transactions within the marketplace

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(Figure 1b (160) [0045] Party B has an attached database 160. Party B is a merchant that maintains records concerning customers. Data which may be maintained includes the number of transaction that the customer has had with the merchant, the amount of merchandise purchased, an associated rating of the customer and any other data perceived of as pertinent by the merchant concerning the customer)

automatically communicating the transaction data stored to the online dispute resolution system without human intervention in response to initiation of a dispute ([0045] the server process, having data concerning the customer as provided by the merchant database; see also [0047]); and

utilizing the transaction data in accordance with a dispute resolution process to assist the users in resolving disputes relating to the transactions within the electronic marketplace ([0045] if the customer has a high rating which indicates the loyalty of the customer as represented by the number, volume, or value of purchases the merchant may wish to bypass the computer negotiation phase and move directly to level two or three. Additionally, this customer rating may allow the customer with a high rating to select the resolution mechanism; also see [0047]).

Referring to Claim 68:

Collins discloses a method, comprising:

storing transaction data in an electronic marketplace, wherein the transaction data describes the transaction within the electronic marketplace ([0045] Figure 1b (160) Party B has attached database 160; Party B is a merchant that maintains records concerning customers which includes the number of transactions, etc);

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receiving case information with an online dispute resolution system, wherein the case information describes a dispute related to one of the transactions of the electronic marketplace ([0043] *negotiation log file (150) all communications between the parties and the central server process, as well as communications between the parties may be captured and recorded in the negotiation log file 150 [0046] and Figure 2 Step 400 involves issue definition and clarification; see [0047] Figure 3 position data; [0061 case reference number allows the parties to access case information including negotiation log throughout the negotiation process*);

automatically communicating at least a portion of the transaction data related to the dispute from the electronic marketplace to the online dispute resolution system without manual intervention ([0045] *[0045] the server process, having data concerning the customer as provided by the merchant database; see also [0047]*); and

executing a dispute resolution process with the online dispute resolution system that utilizes the transaction data from the electronic marketplace and the case information from the parties to assist the users in resolving the dispute ([0045] *rating of customer provides mechanism for server process to select level that customer should begin resolution [0047] Figure 3 first party introduced to system; first party provides position data; determine if the party is eligible; if eligible, second party invited to participate; a Negotiation Log file is created*).

Referring to Claim 69:

Collins discloses method, comprising:

storing transaction data in a database of an electronic marketplace, wherein the transaction data describes transactions with the electronic marketplace ([0045] *Figure 1b (160) Party B has attached database 160; Party B is a merchant that maintains records concerning customers which includes the number of transactions, etc).*

receiving case information with an online dispute resolution system from one or more parties, where the case information describes a dispute related to one of the transaction of the electronic marketplace ([0047] *position data*); and

executing a dispute resolution process with the online dispute resolution system that receives at least a portion of the transaction data stored from the database of the electronic marketplace without human intervention in response to initiation of the dispute and uses the received portion of the transaction data and the case information from the parties to assist the parties in resolving the dispute ([0045] *rating of customer provides mechanism for server process to select level that customer should begin resolution [0047] Figure 3 first party introduced to system; first party provides position data; determine if the party is eligible; if eligible, second party invited to participate;*

Referring to Claim 70:

Collins discloses a system, comprising:

a system that presents an interface (*Figures 1a and 1b (110)*);

an electronic marketplace system (*Figure 1b*) including a database (160) and software object that automatically communicates transaction data from the database to the system ([0045-0047]).

Referring to Claim 71:

Collins discloses system comprising:

a first system having a database (*Figures 1a and 1b (140)*);

a second electronic system including a database, software object executing with the second electronic system that automatically communicates transaction data from the database to the first system (*Figure 1b (160) and [0045-0047]*); and

a software object executing with the second system that queries the database (*Figures 1a and 1b server process; claim 9 computer program product with code*).

Referring to Claim 72:

Collins discloses a system comprising:

a server (*Figures 1a and 1b (server process)*);

a plurality of client computers (*Figures 1a and 1b (110)*);

a system having at least one server that communicates with a database of an electronic marketplace system (*Figure 1b (server process and (160))*).

Referring to Claim 73:

Collins discloses an online dispute resolution system that executes a dispute resolution process (*[0037] The embodiment of Fig. 1a illustrates a method of facilitating agreement over a network among a plurality of participants. The agreement being sought pertains to what is referred to as a "situation." A "situation" may be a dispute between a customer and a merchant, or a "situation" may be the negotiation of an agreement [0039]* In one potential application, for example, a customer may have a dispute with a merchant. The dispute may arise in connection with a transaction occurring over the Internet or the dispute may involve a transaction that occurred under

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other circumstances. A dispute may also arise in connection with multiple transactions related to one customer or one customer account. For example, a customer with a credit card account may dispute one or more items appearing on a credit card statement, each item corresponding to a purchase transaction. The customer may contact the issuer of the credit card to resolve such a dispute.); and

an electronic marketplace system ([0037] A "situation" may be a dispute between a customer and a merchant; it will be understood to include the Internet as well as other networks [0039] a customer may have a dispute with a merchant. The dispute may arise in connection with a transaction occurring over the Internet; [0042] Figure 1a shows only two parties there may be more than two parties; [0045] Fig. 1b shows an alternative embodiment in which Party B has an attached database 160. Party B is a merchant that maintains records concerning customers; [0053] Fig. 9, the method described may be particularly suited to resolution of a post transaction dispute between a consumer and merchant); that includes:

a web server that provides a centralized trading place for a plurality of buyers and sellers ([0038] In one embodiment, for example, as described in further detail below, a series of remote computer terminals may be in communication over a network with a server. In a further embodiment, the server may generate hypertext markup language (HTML) encoded pages to be displayed on the screens of the terminals, and appropriate HTML encoded pages may be used for supplying pertinent data to the server. Thus embodiments of the invention may be implemented over the **World Wide**

Web; [0042] Although Fig. 1a shows only two parties there may be more than two parties engaged in a negotiation session);

a database that stores data ([0045] *Fig. 1b shows an alternative embodiment in which Party B has an attached database 160. In this embodiment Party B is a merchant that maintains records concerning customers. Data which may be maintained includes the number of transactions that the customer has had with the merchant, the amount of merchandise purchased with the merchant, an associated rating of the customer, and any other data perceived of as pertinent by the merchant concerning the customer*),

a software object that communicates the data from the database to the online dispute resolution system (col. 8, claim 9 *a computer program product for use on a computer system for facilitating agreement comprising code for receiving data, storing data, and retrieving data*).

Claims 62 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins.

Referring to Claim 62:

Collins discloses a pull down box on the template provided with a listing of possible participating parties such as merchants and companies. This allows the customer to know whether the merchant/other party is bound to participate [0061]. Collins does not explicitly disclose displaying in the electronic marketplace visual indicia associated with users of the electronic marketplace that participate in the dispute

resolution system and automatically controlling the appearance of the visual indicia as a function of data received from the dispute resolution system for the users in response to resolution of the disputes. However, it is the Examiner's position that a visual indicia is something that visually communicates something to the person viewing the indicia. The pull-down box conveys to the customer that the merchant/other party is bound to participate. The appellant states in paragraph [0015] that a medallion can be provided to registered sellers to serve as a visible symbol of trust and to increase buyers' confidence in transaction with the seller.

The Examiner takes Official Notice that providing an indicia on a website is old and well known as is evidenced by www.truste.com. TRUSTe discloses that dispute resolution is provided as an insurance covering a transaction (page 10 the TRUSTe program is backed by a multi-faceted assurance process that establishes Web site credibility, thereby making users more comfortable when making online purchases or providing information; page 19 the Watchdog page to provide you with a convenient mechanism for reporting violations; page 25; page 34 Resolution Process; page 50, Watchdog dispute resolution form – if you have an unresolved dispute with a TRUSTe member; TRUSTe discloses sellers associated with the marketplace being registered subscribers of the system before transactions are insured (*page 14 in joining the TRUSTe online seal program, you leading the way; the trustmark is awarded only to sites that adhere to our established privacy principles and agree to comply with ongoing TRUSTe oversight and **our resolution process**; page 21 Watchdog (File a Complaint); pages 32 – 34*).

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Therefore, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to display visual indicia because appellant does not disclose that the indicia is used for a particular purpose other than what it means to the mind of one viewing the indicia or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention with the pull-down box disclosed in Collins or the indicia because both are used to notify a customer whether the merchant is participating with the dispute resolution system.

Therefore, it would have been an obvious matter of design choice to modify Collins to obtain the invention as specified in claim 62.

Furthermore, the visual indicia is determined to be non-functional descriptive data. The indicia qualifies as descriptive material. It is nonfunctional descriptive data since the indicia does not alter the steps of the method or add to any structure of the system. The indicia conveys meaning to the person observing the indicia, ie, it gives notice to the observer that the seller is registered. The indicia only means something in the mind of the person viewing the indicia, thereby imparting trust and confidence in the mind of the viewer (See *In re Gulack*, 703 F. 2d 1381, 217 USPQ 401 (Fed. Cir. 1983) and *In re Lowery*, 32 F. 3d 1579, 32 USPQ 2d 1031).

Referring to Claim 63:

Collins does not disclose method comprising embedding uniform resource locators associated with the dispute resolution system within a hypertext markup language application for the website of the electronic marketplace to enable the users of

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the electronic marketplace to automatically access the dispute resolution system from the electronic marketplace without manually entering the transaction data into the dispute resolution system.

However, the Examiner takes Official Notice that it is old and well known to provide a URL within a website to enable users to access another system as is evidenced by Yahoo, Google, the PTO website, and the Non-Profit Dating Service webpage which the Examiner has provided - all having embedded uniform resource locators within a hypertext markup language application for the website.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the dispute resolution system of Collins a URL locator on participants' websites so a user can easily and quickly access the system.

(10) Response to Argument

The First Ground of Rejection is the rejection of claims 49-73 under 35 USC 112, 1st paragraph as failing to comply with the written description requirement

Standard for compliance with the written description requirement

This application was filed on September 26, 2003 as a continuation of application number 09/504,159 wherein appellant claims priority to the February 16, 2000 filing date of the 09/504,159 application. However, the Examiner asserts that for priority the later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first

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paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 10/672,136, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application.

Appellant states on page 14 of the Appeal Brief that with respect to claims 49-73, added limitations, i.e., claims not found in the original disclosure, claim limitation can be satisfied by express, implicit or even inherent disclosure. The Examiner agrees with this statement. However, the Examiner disagrees with the assertion that the specification describes the claimed invention in sufficient detail so that one skilled in the art can **reasonably conclude** that the inventor had possession of the claimed invention. Since the claim limitations are not expressly disclosed, appellant is asking the Examiner to rely on implicit or inherent disclosure to satisfy the written description requirement for what appellant considers to be the novel, and thus patentably distinct, feature of an invention. Appellant is arguing that limitations are implicit or inherent in applicant's disclosure but appellant does not give the same implicit or inherent consideration to the prior art.

The appellant contends that the Examiner has required express disclosure, i.e., verbatim language within the specification, for claim limitations. The Examiner asserts that this is incorrect. The Examiner stated, as set forth above, since the claim limitations are not expressly disclosed, appellant is asking the Examiner to rely on implicit or inherent disclosure to satisfy the written description requirement for what

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appellant considers to be the novel, and thus patentably distinct, feature of an invention. From this statement, the appellant now asserts that the Examiner requires express disclosure, verbatim language. This is an incorrect assumption on the part of appellant. The Examiner does assert that one skilled in the art would not reasonably conclude that the inventor had possession of the claimed invention.

The Examiner finds the applicant's arguments to the board to be misleading, especially in light of footnote 26 on page 16 wherein the appellant states that the Examiner states "[s]ince the claim limitations are not expressly disclosed, appellant is asking the Examiner to rely on implicit or inherent disclosure to satisfy the written description requirement [**but this will not be considered because**], appellant does not give the same implicit or inherent consideration to the prior art."

What the Examiner actually said, on page 24 of the Final Office action of date February 16, 2006 is set forth below:

Moreover, the Examiner disagrees with the assertion that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention. Since the claim limitations are not expressly disclosed, appellant is asking the Examiner to rely on implicit or inherent disclosure to satisfy the written description requirement for what appellant considers to be the novel features of an invention.

Appellant is arguing that limitations are implicit or inherent in applicant's invention but appellant does not give the same implicit or inherent consideration to the prior art.

Thus, the Examiner asserts that the Examiner does not require or rely on express disclosure and the Examiner in no manner stated that implicit or inherent disclosure would not be considered. However, the Examiner does state that, even by

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implicit or inherent disclosure, one skilled in the art would not reasonably conclude that the inventor had possession of the claimed invention.

Compliance with the written description

Appellant has chosen to start with claim 73 in applicant's analysis of the rejection under 35 USC 112, 1st paragraph. The discussion as to claim 73 can be found on pages 58 through 61 of the Examiner's Answer. The Examiner will discuss the rejections in the following order:

Independent claims 49 and 58:

Claim 49 is directed to:

A system comprising:

an online dispute resolution system electronically coupled to an electronic marketplace, wherein the electronic marketplace stores transaction data that describes transactions within the electronic marketplace between buyers and sellers of goods of services,

wherein, in response to initiation of a dispute, the online dispute resolution system electronically receives at least a portion of the transaction data stored within the electronic marketplace without requiring manual entry of the transaction data, and

wherein the dispute resolution system utilizes the received portion of the transaction data in accordance with a dispute resolution process to assist the buyers and sellers in resolving disputes relating to the transactions.

Claim 58 is directed to:

A method comprising:

providing an online dispute resolution system electronically coupled to an electronic marketplace that provides a website by which users buy and sell items, wherein the electronic marketplace includes a database that stores transaction data that describes transactions within the marketplace;

electronically receiving with the online dispute resolution system at least a portion of the transaction data from the database of the electronic marketplace in response to initiation of a dispute; and

utilizing the received portion of the transaction data in accordance with a dispute resolution process to assist the users in resolving disputes relating to the transactions within the electronic marketplace.

Appellant states that disclosure for the transaction data stored within the electronic marketplace ***without requiring manual entry of the transaction data*** and ***wherein the electronic marketplace includes a database*** that stores transaction data that describes transactions within the market place. In the amendment and remarks filed on November 28, 2005 (page 11), appellant directed the Examiner to paragraphs [0045-0047] wherein applicant's specification discloses:

[0045] Referring now to FIG. 2A, one implementation of the dispute resolution system 130 is shown. In this implementation, the dispute resolution system 130 includes a plurality of redundant, fail-over servers 132-136. The servers 132-136 are connected to the network 120. Moreover, each server 132 or 136 is connected to a data storage system 134 and 138, respectively. To support fail-over, each server 132 or 136 can provide resources independent of the other until one of the servers fails. Each server continuously monitors the other server. When one of the servers fails, the surviving server acquires the shared drives and volumes of the failed server and mounts the volumes contained on the shared drives. Applications that use the shared drives can also be started on the surviving server after the failover. Further, a manual-failover operation can be performed on the shared volumes at any time in order to

perform tasks such as scheduled maintenance on one of the servers. As soon as the failed server is booted up and the communication between servers indicates that the server is ready to own its shared drives, the servers automatically start the recovery process.

[0046] Referring now to FIG. 2B, a second implementation 150 of the dispute resolution system is shown. In this implementation, a customer (which can be either the seller or the buyer) or a dispute resolution specialist can access data using a web browser on a workstation 152. The data is securely transferred between the workstation 152 to a network 154. The network 154 can be the Internet or can be an intranet. A server 156 communicates with the network 154. The server 156 also communicates with a second server 158, which can be an e-commerce server such as the ColdFusion server, available from Allaire Inc. The server 158 is used as a Web Application Server to present HTML applications. These applications allow customers to file and manage disputes and dispute resolution specialists to manage cases over the Internet.

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will transparently deal with communication issues including server unavailability and performance. Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.

[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a data manager 162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

[0049] Referring now to FIG. 3, a process 230 that provides a forum for rating buyers and sellers is shown. First, either a party such as a buyer or a seller can access the dispute resolution system (step 232). Next, the party can enter a password to access the system (step 234). If the password is correct, the process 230 allows the party to access information relating to the

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"performance" of another party (step 236). The process 230 then checks whether the party is finished with the checking process (step 238). If not, the process 230 loops back to step 236 to allow the party to continue looking up the performance of other parties. Alternatively, the process 230 exits.

Appellant argued in this November 28, 2005 Remarks (pages 12-13) that Figure 1 shows a marketplace 102 separate from the dispute resolution system. The Examiner agrees with this assertion. The Examiner agrees that the online marketplace is a website or an online centralized trading place. However, the Examiner does not agree that this present application makes clear that the online marketplace is a system that provides a centralized trading place, and is not an individual buyer.

The Examiner directs the appellant to paragraphs 39-41 wherein it is stated:

[0039] FIG. 1 shows an environment 100 that supports electronic dispute resolution. In this environment, one or more sellers 104 offer their products and/or services to one or more consumers 106 at a marketplace 102. The marketplace 106 can be a physical mall or market or can be a website **such as** an online centralized trading place. The centralized trading place overcomes the inefficiencies associated with traditional person-to-person trading by facilitating buyers and sellers meeting, listing items for sale, exchanging information, interacting with each other and, ultimately, consummating transactions. Through such a trading place, buyers can access a significantly broader selection of goods to purchase and sellers have the opportunity to sell their goods efficiently to a broader base of buyers.

[0040] One exemplary person-to-person trading place on the Internet is eBay, located at www.eBay.com. eBay is a Web-based community in which buyers and sellers are brought together in an efficient auction format to buy and sell items such as antiques, coins, collectibles, computers, memorabilia, stamps and toys. The eBay service permits sellers to list items for sale, buyers to bid on items of interest and all users to browse through listed items in a fully-automated, topically-arranged online service that is available 24 hours a day, seven days a week.

[0041] The seller 104 may be a manufacturer. The marketplace 102 and the seller 104 can communicate directly with each other, or can communicate over a network 120. The network 120 can be a wide area network such as the Internet. The one or more consumers 106 can communicate with the marketplace 102 and

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indirectly the seller 104 over the network 120. A multiparty community 110 having a first party 112, a second party 114 and an nth party 116 can communicate with the network 120. Further, the first party 112, second party 114 and nth party 116 can communicate directly with each other.

Furthermore, appellant states in paragraph 12:

[0012] In a second aspect, a system for resolving online disputes includes a network; an electronic marketplace coupled to the network; one or more sellers selling one or more items at the marketplace; one or more buyers consuming one or more items at the marketplace; and a dispute resolution system coupled to the network to resolve a dispute between one or more buyer and seller parties, the dispute resolution system adapted to select one of two modes of resolving the dispute, the first mode being completely driven by an electronic agent and the second mode involving a dispute resolution specialist.

These excerpts do not clearly provide that the online market place must be a system that provides a centralized trading place, and not an individual buyer or seller.

Appellant argues in the Remarks submitted on November 28, 2005 (page 12) that Figure 2B shows a "second implementation" 150 of the invention in which the dispute resolution system integrates with a business partner's system, such as the online marketplace 102. The appellant then argues that the totality of the description of Figure 2B makes clear that marketplace 102 of Figure 1 is an example of a partner system referred to in 2B. Appellant states that paragraph 48 expressly refers to partner systems as having "partner databases 164."

Paragraph 48 is set forth below:

[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a data manager 162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

To better understand Figure 2B, one would need to read paragraphs 0045-0050 in the order which the specification provides.

[0045] Referring now to FIG. 2A, one implementation of the dispute resolution system 130 is shown. In this implementation, the dispute resolution system 130 includes a plurality of redundant, fail-over servers 132-136. The servers 132-136 are connected to the network 120. Moreover, each server 132 or 136 is connected to a data storage system 134 and 138, respectively. To support fail-over, each server 132 or 136 can provide resources independent of the other until one of the servers fails. Each server continuously monitors the other server. When one of the servers fails, the surviving server acquires the shared drives and volumes of the failed server and mounts the volumes contained on the shared drives. Applications that use the shared drives can also be started on the surviving server after the failover. Further, a manual-failover operation can be performed on the shared volumes at any time in order to perform tasks such as scheduled maintenance on one of the servers. As soon as the failed server is booted up and the communication between servers indicates that the server is ready to own its shared drives, the servers automatically start the recovery process.

[0046] Referring now to FIG. 2B, a second implementation 150 of the dispute resolution system is shown. In this implementation, ***a customer (which can be either the seller or the buyer) or a dispute resolution specialist can access data using a web browser on a workstation 152. The data is securely transferred between the workstation 152 to a network 154.*** The network 154 can be the Internet or can be an intranet. ***A server 156 communicates with the network 154. The server 156 also communicates with a second server 158, which can be an e-commerce server such as the ColdFusion server, available from Allaire Inc. The server 158 is used as a Web Application Server to present HTML applications. These applications allow customers to file and manage disputes and dispute resolution specialists to manage cases over the Internet.***

[0047] ***The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system.*** Both DCOM objects and Enterprise Java Beans models can be used. ***These objects provide functionality to receive and send specific information to the dispute resolution system 130.*** The objects will transparently deal with communication issues including server unavailability and performance. ***Example functionality includes informing the dispute resolution system 130 of relevant partner***

transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.

[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a data manager 162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

[0049] Referring now to FIG. 3, a process 230 that provides a forum for rating buyers and sellers is shown. First, either a party such as a buyer or a seller can access the dispute resolution system (step 232). Next, the party can enter a password to access the system (step 234). If the password is correct, the process 230 allows the party to access information relating to the "performance" of another party (step 236). The process 230 then checks whether the party is finished with the checking process (step 238). If not, the process 230 loops back to step 236 to allow the party to continue looking up the performance of other parties. Alternatively, the process 230 exits.

From these excerpts, the appellant then states that this clearly established that the inventors were in possession of the concept that **the online marketplace 102**

Figure 1 has a separate database that stores partner transactions.

It is the Examiner's position that this limitation is not clearly set forth.

Furthermore, appellant's claim language in claim 49 sets forth that wherein, **in response to initiation of a dispute**, the online dispute resolution system electronically receives **at least a portion of the transaction data stored within the electronic marketplace without requiring manual entry of the transaction data**. Where is this disclosed? The Examiner asserts that the appellant does not have disclosure for this limitation.

It appears to the Examiner that the only information received in response to initiation of a dispute is status information, i.e., where the seller is enrolled and covered by the system and whether the transaction occurred after coverage began as set forth in paragraph [0056].

In the November 28, 2005 communication (page 13), appellant refers to predictive reasoning process 500 as it relates to Figure 10. Text relating to this excerpt is shown below.

[0120] Referring now to FIG. 9, a process 500 for supporting two modes of communication between the parties and the dispute resolution system is shown. First, the process 500 checks whether the parties are in a conciliation mode (step 502). If not, the process 500 checks whether the parties are in a dispute resolution mode (step 503). If not, the process 500 exits. Alternatively, if the parties are in the resolution mode, the process shares communications with both parties (step 504).

[0121] From step 502, if the process 500 is in a conciliation mode, the process 500 checks whether the parties should be in a public messaging mode (step 506). If so, the process 500 jumps to step 504. Alternatively, the process 500 checks whether the parties should be in a private messaging mode (step 508). If so, the process 500 handles communications between parties in a private manner (step 510). From steps 503, 508 and 510, the process 500 exits.

[0122] Referring now to FIG. 10, a predictive reasoning process 500 is shown. This process assists the dispute resolution specialists as well as the parties themselves in deciding a fair resolution of the dispute. First, the process 500 retrieves facts associated from the current case (step 552). Next, the process 500 searches for cases with similar facts in this database (step 554). Finally, the process 500 retrieves and summarizes and displays the outcomes of the similar cases for all parties and the dispute resolution specialist to see. Finally, the process then exits.

[0123] The search of cases with similar facts can be done using a conventional database search, or can be done using a number of machine learning systems, including case-based reasoning, neural networks, fuzzy networks, genetic algorithms (including genetic programming and classifier systems), Evolutionary Strategies, Evolutionary Programming, ADAPT program induction, cellular

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automata, Box Jenkins optimization, ARMA optimization and many others. Rather than applying a direct computational approach, these systems create one or more proposed solutions in the form of data and computer program entities, and iteratively alter the data and/or entities for finding known solutions to the dispute at hand.

The Examiner asserts that these excerpts do not show support for *the electronic marketplace including a (separate) database that stores transaction data* and that, in response to initiation of a dispute, *the system electronically receives at least a portion of the transaction data* with the electronic marketplace *without manual entry of the transaction data*.

Furthermore, paragraph 21 of applicant's disclosure states that:

[0021] The system also applies automatic tools such as an intelligent predictive reasoning system (also called case-based reasoning (CBR) system). CBR assists parties in disputes by indicating the likelihood of a particular outcome. This helps parties request reasonable solutions thereby increasing the likelihood of an easy settlement. It also assists the dispute resolution specialist in identifying similar past cases and indicating likely outcomes and their associated certainty. The system matches new disputes to "cases" from a historical database and then adapting successful outcomes from the past to the current situation. This technique increases the efficiency of the dispute resolution process and provides a high degree of decision uniformity. This effectively creates a semi-automated precedent-based resolution system.

Appellant argues the one of ordinary skill would reasonable conclude that the inventors were in possession of at least one embodiment in which data is communicated between system, e.g., from a partner database 164 of a marketplace, as a partner system, to database 160 of online dispute resolution system 150 to inform the dispute resolution system of transactions by the buyers and sellers. The appellant then states that direct integration or communication between the systems, e.g., by way of database to database communication, as described by the inventors, would,

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inherently, avoid manual reentry of communicated data into the online dispute resolution system. Moreover, according to the present application, the remote software objects of the partner system will transparently deal with communication issues including server unavailability and performance when communicating data to the database of the online dispute resolution system 130. The appellant states that these sections make clear that the software objects transparently communicate the partner data from the partner system to the online dispute resolution system 130. Appellant then states, that, ***thus, although the specification does not include the exact words of communicating transaction data to the online dispute resolution system electronically without manually entering the transaction data into the dispute resolution system, it is clear that the present inventors contemplated and described certain embodiments of transparent electronic transfer of transactions from the database 164 of the marketplace 102 to the database 160 of the online dispute resolution system.*** Appellant argues that if indeed manual entry of transactions were required by online dispute resolution system, contrary to the second embodiment 150 of the present application, the partner database 164 would not be accessed and server 150 would not receive data from the database information the online dispute resolution system 130 of partner transaction, as ***expressly*** described by the present application.

As set forth in the applicant's summary of the claimed invention, as to claims 49 and 58, the appellant directs the Examiner to paragraphs [0039], [0046-0047], [0085] and Figure 2B and Figure 10.

Paragraph [0039] discloses:

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[0039] FIG. 1 shows an environment 100 that supports electronic dispute resolution. In this environment, one or more sellers 104 offer their products and/or services to one or more consumers 106 at a marketplace 102. The marketplace 106 can be a physical mall or market or can be a website such as an online centralized trading place. The centralized trading place overcomes the inefficiencies associated with traditional person-to-person trading by facilitating buyers and sellers meeting, listing items for sale, exchanging information, interacting with each other and, ultimately, consummating transactions. Through such a trading place, buyers can access a significantly broader selection of goods to purchase and sellers have the opportunity to sell their goods efficiently to a broader base of buyers.

Paragraphs [0046-0047] disclose:

[0046] Referring now to FIG. 2B, a second implementation 150 of the dispute resolution system is shown. In this implementation, a customer (which can be either the seller or the buyer) or a dispute resolution specialist can access data using a web browser on a workstation 152. The data is securely transferred between the workstation 152 to a network 154. The network 154 can be the Internet or can be an intranet. A server 156 communicates with the network 154. The server 156 also communicates with a second server 158, which can be an e-commerce server such as the ColdFusion server, available from Allaire Inc. The server 158 is used as a Web Application Server to present HTML applications. These applications allow customers to file and manage disputes and dispute resolution specialists to manage cases over the Internet.

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will **transparently deal** with communication issues including server unavailability and performance. Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.

The Examiner asserts that one of ordinary skill could not reasonably conclude that the inventors were in possession of at least one embodiment in which data is communicated between system, e.g., from a partner database 164 of a marketplace,

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as a partner system, to database 160 of online dispute resolution system 150 to inform the dispute resolution system of transactions by the buyers and sellers. The Examiner asserts that the paragraphs set forth above do not provided disclosure for this type transaction. The Examiner asserts that the direct integration or communication between the systems, e.g., by way of database to database communication, as set forth by the applicant, would not, inherently or implicitly, avoid manual reentry of communicated data into the online dispute resolution system. Moreover, the Examiner asserts that these sections do not make clear that the software objects transparently communicate the partner data from the partner system to the online dispute resolution system 130.

Dependent claim 52:

Claim 52 is directed to the system of claim 49,
wherein the online dispute resolution system comprises a membership profile database that maintains status information, and
wherein ***the online dispute resolution system electronically communicates the status information to a database of the electronic marketplace.***

The Appellant directs the Examiner to paragraphs 47 and 48 as providing support for this limitation. These paragraphs disclose:

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will transparently deal with communication issues including server unavailability

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and performance. ***Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.***

[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a data manager 162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

It appears that the partners query the dispute resolution system for the status information. The updating appears to be the updating of enrollment information as set forth below:

[0053] In all the above cases, if the seller's coverage is successful, the process updates a membership profile database, notifies the appellant of acceptance, and sends indicia such as a medallion to be displayed on the seller's point of sale.

[0055] When the submit button 279 is selected, the process then checks whether the buyer is authorized under his or her credit arrangement. If not, the process requests the user to reenter his or her identification information. Alternatively, if the user is authorized, the process updates a membership profile database, notifies the appellant of acceptance, and buyer can proceed to file the dispute. During normal transactions, the buyer can check whether a dispute resolution system logo is shown on the seller's site. If not, the buyer can request the seller to be a member of the dispute resolution system. If the seller agrees to join the dispute resolution system, a registration process is performed. Alternatively, if the seller does not agree to the terms of the dispute resolution system, the buyer makes a decision as to whether he or she is willing to commit to purchasing without the appropriate dispute resolution assurance and either proceeds with the transaction or cancels the transaction.

Thus, the Examiner asserts one would not reasonably conclude that the appellant was in possession of the limitations of claim 52.

Dependent claim 53:

Dependent claim 53 is directed to the system of claim 49, wherein the online dispute resolution system further comprises a server to service electronic requests issued by a server within the electronic marketplace to exchange data between the online dispute resolution system and the electronic marketplace.

Appellant directs the Examiner to paragraph 48 of the specification as providing support for the system comprising a sever to ***service electronic requests issued by a server within the electronic marketplace to exchange data between the online dispute resolution system and the electronic marketplace.***

[0046] Referring now to FIG. 2B, a second implementation 150 of the dispute resolution system is shown. In this implementation, a customer (which can be either the seller or the buyer) or a dispute resolution specialist can access data using a web browser on a workstation 152. The data is securely transferred between the workstation 152 to a network 154. The network 154 can be the Internet or can be an intranet. A server 156 communicates with the network 154. The server 156 also communicates with a second server 158, which can be an e-commerce server such as the ColdFusion server, available from Allaire Inc. The server 158 is used as a Web Application Server to present HTML applications. These applications allow customers to file and manage disputes and dispute resolution specialists to manage cases over the Internet.

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will transparently deal with communication issues including server unavailability and performance. Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to

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query the dispute resolution system data such as the status of a specific marketplace seller 104.

[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a data manager 162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

The Examiner notes that this does not disclose a server within an electronic marketplace.

Dependent claim 54:

Claim 54 is directed to the system of claim 49 wherein the online dispute resolution system comprises a data manager software application to automatically communicate data between a database of the online dispute resolution system and ***a database of the electronic marketplace.***

The appellant states that paragraph [0047] provides disclosure for this limitation.

[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a data manager 162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

The Examiner asserts that is paragraph does not provide support for the limitation of the database of the electronic marketplace.

Dependent claim 55:

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Claim 55 is directed to the system of claim 49, wherein the online dispute resolution system electronically communicates rating data ***from a database of the online dispute resolution system*** to a ***database of the electronic marketplace***.

The appellant directs the Examiner to paragraphs [0047-0048] as providing disclosure for this limitation, wherein these paragraphs disclose:

[0046] Referring now to FIG. 2B, a second implementation 150 of the dispute resolution system is shown. In this implementation, a customer (which can be either the seller or the buyer) or a dispute resolution specialist can access data using a web browser on a workstation 152. The data is securely transferred between the workstation 152 to a network 154. The network 154 can be the Internet or can be an intranet. A server 156 communicates with the network 154. The server 156 also communicates with a second server 158, which can be an e-commerce server such as the ColdFusion server, available from Allaire Inc. The server 158 is used as a Web Application Server to present HTML applications. These applications allow customers to file and manage disputes and dispute resolution specialists to manage cases over the Internet.

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will transparently deal with communication issues including server unavailability and performance. Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.

[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a data manager 162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

The Examiner asserts that these paragraphs do not provide support for communicating data between a database of the online dispute resolution system and a database of the electronic marketplace.

Dependent claims 51 and 60:

Claims 51 and 60 are directed to the system of claim 49 and the method of claim 58, wherein the online dispute resolution system electronically receives requests from the sellers of the marketplace and automatically initiates enrollment of the sellers within the dispute resolution system.

Where is the language that the system **automatically** initiates enrollment of sellers? The Appellant directs the Examiner to Figure 4 and Figure 1. The text relating to Figure 4 and Figure 1 is set forth below.

[0050] FIG. 4 is a diagram illustrating a process 240 whereby a seller can request coverage from the dispute resolution system. Upon receipt of a request to initiate coverage, the system of FIG. 1 provides the seller with a welcome page 242 where the seller can enter his or her user identification and password information. **If the user is new, the seller can enter a registration page 244 by clicking on a registration hotlink.** Upon completing the registration process, the process of FIG. 4 notifies the seller of a successful registration and displays other relevant information in page 246 before looping back to the start of the process 240.

[0051] From the welcome page 242, if the seller enters its identification and password information, the process of FIG. 4 checks if the seller is already covered against a particular partner, the process of FIG. 4 notifies the seller with a page 248 that coverage has already been secured for the desired partner. The page 248 also allows the user to retrieve the account history information or to jump to the beginning of the process 240.

[0052] From the welcome page 242, if the seller enters its identification and password information, and if the seller is registered with the system of FIG. 1 but is not covered for transactions with the desired partner, the process of FIG. 4 secures coverage and displays a page 250 to notify the seller that transactions with the desired partner are now covered by the dispute resolution

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system. The page 250 also allows the seller to jump to a personalized page in the dispute resolution system, or alternatively to jump back to the beginning of the process of FIG. 4 to continue accepting requests for coverage.

[0053] In all the above cases, if the seller's coverage is successful, the process updates a membership profile database, notifies the appellant of acceptance, and sends indicia such as a medallion to be displayed on the seller's point of sale.

Where is the **automatic** initiation of enrollment by the online dispute resolution system? It appears that the seller initiates enrollment.

NOTE: Appellant is directed a recent CAFC decision, *Collegenet, Inc. v. Applyyourself, Inc.* (CAFC, 04-1202-1222, 1251, 8/2/2005) wherein the court held that "automatically" means "without human interaction, but may be human initiated or interrupted." Therefore, a process may be automatic even though a human initiates it.

Dependent claim 61

Claim 61 is directed to the method of claim 58, further comprising:
electronically communicating data that relates to the online dispute resolution process to the database of the electronic marketplace, and
updating the electronic marketplace based on the data received from the dispute resolution system.

Claim 61 claims ***communicating data that relates to the dispute process to the database of the electronic marketplace, and updating the marketplace based on the data.***

The applicant's specification provides the following disclosure:

[0046] Referring now to FIG. 2B, a second implementation 150 of the dispute resolution system is shown. In this implementation, a customer (which can be

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either the seller or the buyer) or a dispute resolution specialist can access data using a web browser on a workstation 152. The data is securely transferred between the workstation 152 to a network 154. The network 154 can be the Internet or can be an intranet. A server 156 communicates with the network 154. The server 156 also communicates with a second server 158, which can be an e-commerce server such as the ColdFusion server, available from Allaire Inc. The server 158 is used as a Web Application Server to present HTML applications. These applications allow customers to file and manage disputes and dispute resolution specialists to manage cases over the Internet.

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will transparently deal with communication issues including server unavailability and performance. Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.

[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a data manager 162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

The Examiner asserts that appellant does not have support for the database of the electronic marketplace and thus for updating the marketplace based on the data.

Dependent claim 62:

Claim 62 is directed to the method of claim 61, wherein updating the electronic marketplace comprises:

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displaying in the electronic marketplace visual indicia associated with users of the electronic marketplace that participate in the dispute resolution system; and controlling the appearance of the visual indicia as a function of data received from the dispute resolution system from the users in response to resolution of disputes.

Applicant's disclosure provides the following:

[0050] FIG. 4 is a diagram illustrating a process 240 whereby a seller can request coverage from the dispute resolution system. Upon receipt of a request to initiate coverage, the system of FIG. 1 provides the seller with a welcome page 242 where the seller can enter his or her user identification and password information. If the user is new, the seller can enter a registration page 244 by clicking on a registration hotlink. Upon completing the registration process, the process of FIG. 4 notifies the seller of a successful registration and displays other relevant information in page 246 before looping back to the start of the process 240.

[0051] From the welcome page 242, if the seller enters its identification and password information, the process of FIG. 4 checks if the seller is already covered against a particular partner, the process of FIG. 4 notifies the seller with a page 248 that coverage has already been secured for the desired partner. The page 248 also allows the user to retrieve the account history information or to jump to the beginning of the process 240.

[0052] From the welcome page 242, if the seller enters its identification and password information, and if the seller is registered with the system of FIG. 1 but is not covered for transactions with the desired partner, the process of FIG. 4 secures coverage and displays a page 250 to notify the seller that transactions with the desired partner are now covered by the dispute resolution system. The page 250 also allows the seller to jump to a personalized page in the dispute resolution system, or alternatively to jump back to the beginning of the process of FIG. 4 to continue accepting requests for coverage.

[0053] In all the above cases, if the seller's coverage is successful, the process **updates a membership profile database, notifies the appellant of acceptance, and sends indicia such as a medallion to be displayed on the seller's point of sale.**

4. A method for integrating an online dispute resolution system with an electronic marketplace to allow users of the electronic marketplace to resolve disputes and provide users of the electronic assurance that disputes will be

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resolved, the method comprising: providing an electronic marketplace as a website that is accessed by users via a computer network and enables the users to buy and sell items; indicating within the electronic marketplace website the availability of a dispute resolution system that is coupled to the computer network to resolve disputes between the users of the electronic marketplace; embedding uniform resource locators associated with the dispute resolution system within a hypertext markup language application for the website to enable users of the electronic marketplace to access the dispute resolution system from the electronic marketplace; and ***displaying visual indicia within the website that are associated with users of the electronic marketplace, wherein the appearance of the visual indicia is related to data maintained by the online dispute resolution system that is related to use of the dispute resolution system by the users.***

The Examiner asserts that there is no disclosure for displaying ***in the electronic marketplace visual indicia*** and controlling the appearance of the indicia as a function of ***data received from the dispute resolution system for the users in response to resolution of the dispute.***

Dependent claim 63:

Claim 63 is directed to the method of claim 58, further comprising embedding uniform resource locators associated with the dispute resolution system within a hypertext markup language application for the website of the electronic marketplace to enable the users of the electronic marketplace to automatically access the dispute resolution system from the electronic marketplace and file disputes without manually entering the transaction data into the dispute resolution system.

The Examiner is unable to find support for the limitation for filing disputes ***without manually entering the transaction data into the dispute resolution system.***

In the November 28, 2005 amendment and remarks, the appellant directs the Examiner to paragraph 47 and reminds the Examiner that the claim limitations can be satisfied through express, implicit or even inherent disclosure with the terms *implicit* and *inherent* italicized. The appellant states on page 20 of the November 28, 2005 response, that ***although the specification does not include the exact words "without manually entering the transaction data into the dispute resolution system, it is clear that the present inventors contemplated and described transparent electronic transfer of transactions form database 164 of marketplace 102 to the database 160 of the online dispute resolution system. Appellant further argues that it is clear that the inventors contemplated the remote software objects access database 164 of the marketplace 102 and transparently communicated to a database (SQL server 160) of online dispute system by way of remote data manger 162 to inform the dispute resolution system of transaction with the partner system. Appellant then states that it is clear that the inventors contemplated at least one embodiment that would avoid manual entry of the transactions into the dispute resolution system 130. Appellant states that if manual entry of transactions were always required, contrary to the second embodiment 150 of present application, then partner database 164 would not need to be accessed and server 256 would not "receive data" informing the online dispute resolution system 130 of "partner transactions" as expressly stated by the present application.***

The Microsoft Support Glossary found on www.onelook.com defines transport as follows:

transparent

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adj. 1. In computer use, of, pertaining to, or characteristic of a device, function, or part of a program that works so smoothly and easily that it is invisible to the user. For example, the ability of one application to use files created by another is transparent if the user encounters no difficulty in opening, reading, or using the second program's files or does not even know the use is occurring. 2. In communications, of, pertaining to, or characteristic of a mode of transmission in which data can include any characters, including device-control characters, without the possibility of misinterpretation by the receiving station. For example, the receiving station will not end a transparent transmission until it receives a character in the data that indicates end of transmission. Thus, there is no danger of the receiving station ending communications prematurely. 3. In computer graphics, of, pertaining to, or characteristic of the lack of color in a particular region of an image so that the background color of the display shows through.

Paragraph 47 reads as follows.

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. ***These objects provide functionality to receive and send specific information to the dispute resolution system 130.*** The objects will transparently deal with communication issues including server unavailability and performance. ***Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.***

Contrary to applicant's assertion, it is not clear to the Examiner that the inventors contemplated at least one embodiment that would avoid manual entry of transactions. Appellant argues that if manual entry were required that the partner database 164 would not need to be accessed and server 156 would not receive data information the online dispute resolution system 130 or partner transactions, ***as expressly stated by the present invention.*** Where is this expressly stated? It appears that appellant is trying to convert status information, i.e., whether the seller is covered or enrolled, into transaction data, i.e., data about the online purchase.

Dependent claim 64:

Claim 64 is directed to the system of claim 49, wherein the online dispute resolution system receives an electronic query from the marketplace and provides a status of the marketplace member of the marketplace in response to the query.

The appellant claims that the online dispute resolution system receives an electronic query **from the marketplace** and provides a status of a marketplace member. Where in specification is it disclosed that the query comes from the marketplace? Once again the appellant directs the Examiner to paragraph 0047.

However, the Examiner finds a more compelling argument in paragraphs 0046-0048.

[0046] Referring now to FIG. 2B, a second implementation 150 of the dispute resolution system is shown. In this implementation, **a customer (which can be either the seller or the buyer) or a dispute resolution specialist can access data using a web browser on a workstation 152**. The data is securely transferred between the workstation 152 to a network 154. The network 154 can be the Internet or can be an intranet. A server 156 communicates with the network 154. The server 156 also communicates with a second server 158, which can be an e-commerce server such as the ColdFusion server, available from Allaire Inc. The server 158 is used as a Web Application Server to present HTML applications. **These applications allow customers to file and manage disputes and dispute resolution specialists to manage cases over the Internet.**

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will transparently deal with communication issues including server unavailability and performance. Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.

[0048] The server 158 in turn communicates with a structured query language

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(SQL) server 160. The SQL server 160 also communicates with a data manager 162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

Where is it disclosed that the query comes from the marketplace? Also, in response to that query, where is it disclosed that status information is provided?

Dependent claim 65

Claim 65 is directed to the method of claim 58, further comprising receiving from the online dispute resolution system an electronic query from the marketplace and electronically providing a status associated with one of the users from a database of the online dispute resolution system to the database of the electronic marketplace in response to the query.

The appellant claims that the online dispute resolution system receives an electronic query **from the marketplace** and provides a status of a marketplace member. Where in specification is it disclosed that the query comes from the marketplace? Once again the appellant directs the Examiner to paragraph 0047.

However, the Examiner finds a more compelling argument in paragraphs 0046-0048.

[0046] Referring now to FIG. 2B, a second implementation 150 of the dispute resolution system is shown. In this implementation, **a customer (which can be either the seller or the buyer) or a dispute resolution specialist can access data using a web browser on a workstation 152**. The data is securely transferred between the workstation 152 to a network 154. The network 154 can be the Internet or can be an intranet. A server 156 communicates with the network 154. The server 156 also communicates with a second server 158, which can be an e-commerce server such as the ColdFusion server, available from Allaire Inc. The server 158 is used as a Web Application Server to present

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HTML applications. ***These applications allow customers to file and manage disputes and dispute resolution specialists to manage cases over the Internet.***

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will transparently deal with communication issues including server unavailability and performance. Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.

[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a data manager 162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

Where is it disclosed that the query comes from the marketplace? Also, in response to that query, where is it disclosed that status information is provided?

Independent claim 66:

Claim 66 is directed to a system comprising:

a dispute resolution system electronically coupled to an electronic marketplace for buyers and sellers of goods and services; and

a software application to ***automatically communicate transaction data from a database of the electronic marketplace to a database of the dispute resolution system in response to a transaction within the electronic marketplace by a member of the online dispute resolution system,***

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wherein the transaction data is associated with one or more transactions within the electronic marketplace, and

wherein the dispute resolution system utilizes the transaction data in accordance with a dispute resolution process to assist the buyers and sellers in resolving disputes relating to the transactions.

Appellant has again directed the Examiner to paragraphs 0047 for support of the limitation. Paragraph [0047] reads:

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will transparently deal with communication issues including server unavailability and performance. Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.

The Examiner asserts that this does not provide support for automatically communicate transaction data from a database of the electronic marketplace to a database of the dispute resolution system in response to a transaction within the electronic marketplace by a member of the online dispute resolution system.

Independent Claim 67:

Claim 67 is directed to a method comprising:

providing an online dispute resolution system electronically coupled to an

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electronic marketplace that provides a website by which users buy and sell items, wherein the electronic marketplace stores transaction data that describes transactions within the marketplace;

automatically communicating the transaction data stored to the online dispute resolution system without human intervention in response to initiation of a dispute; and

utilizing the transaction data in accordance with a dispute resolution process to assist the users in resolving disputes relating to the transactions within the electronic marketplace.

The appellant's specification discloses the following:

[0046] Referring now to FIG. 2B, a second implementation 150 of the dispute resolution system is shown. In this implementation, a customer (which can be either the seller or the buyer) or a dispute resolution specialist can access data using a web browser on a workstation 152. The data is securely transferred between the workstation 152 to a network 154. The network 154 can be the Internet or can be an intranet. A server 156 communicates with the network 154. The server 156 also communicates with a second server 158, which can be an e-commerce server such as the ColdFusion server, available from Allaire Inc. The server 158 is used as a Web Application Server to present HTML applications. These applications allow customers to file and manage disputes and dispute resolution specialists to manage cases over the Internet.

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will transparently deal with communication issues including server unavailability and performance. Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.

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[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a data manager 162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

The Examiner is unable to find disclosure for the limitations of ***automatically*** communicating data ***from a database of the electronic marketplace to a database of the online dispute resolution system in response to a transaction within the electronic marketplace.***

Independent claim 68

Claim 68 is directed to a method comprising:

storing transaction data in an electronic marketplace, wherein the transaction data describes transactions within the electronic marketplace;

receiving case information with an online dispute resolution system, wherein the case information describes a dispute related to one of the transactions of the electronic marketplace;

automatically communicating at least a portion of the transaction data related to the dispute ***from the electronic marketplace to the online dispute resolution system without manual intervention***; and

executing a dispute resolution process with the online dispute resolution system that utilizes the transaction data from the electronic marketplace and the case information to assist in resolving the dispute.

The appellant's specification discloses the following:

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[0046] Referring now to FIG. 2B, a second implementation 150 of the dispute resolution system is shown. In this implementation, a customer (which can be either the seller or the buyer) or a dispute resolution specialist can access data using a web browser on a workstation 152. The data is securely transferred between the workstation 152 to a network 154. The network 154 can be the Internet or can be an intranet. A server 156 communicates with the network 154. The server 156 also communicates with a second server 158, which can be an e-commerce server such as the ColdFusion server, available from Allaire Inc. The server 158 is used as a Web Application Server to present HTML applications. These applications allow customers to file and manage disputes and dispute resolution specialists to manage cases over the Internet.

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will transparently deal with communication issues including server unavailability and performance. Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.

[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a data manager 162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

The Examiner is unable to find disclosure for the limitations of *automatically* communicating data *from a the electronic marketplace to the online dispute resolution system without human intervention.*

Independent claim 69

Claim 69 is directed to a method comprising:

storing transaction data *in a database of a electronic marketplace*, wherein the

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transaction data describe transactions within the electronic marketplace;

receiving case information with an online dispute resolution system from one or more parties, wherein the case information describes a dispute related to one of the transactions of the electronic marketplace; and

executing a dispute resolution process with the online dispute resolution system that ***receives at least a portion of the transaction data stored from the database of the electronic marketplace without human intervention in response to initiation of the dispute*** and uses the received portion of the transaction data and the case information from the parties to assist the parties in resolving the dispute.

The appellant's specification discloses the following:

[0046] Referring now to FIG. 2B, a second implementation 150 of the dispute resolution system is shown. In this implementation, a customer (which can be either the seller or the buyer) or a dispute resolution specialist can access data using a web browser on a workstation 152. The data is securely transferred between the workstation 152 to a network 154. The network 154 can be the Internet or can be an intranet. A server 156 communicates with the network 154. The server 156 also communicates with a second server 158, which can be an e-commerce server such as the ColdFusion server, available from Allaire Inc. The server 158 is used as a Web Application Server to present HTML applications. These applications allow customers to file and manage disputes and dispute resolution specialists to manage cases over the Internet.

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will transparently deal with communication issues including server unavailability and performance. Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.

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[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a data manager 162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

Appellant also states that Figure 10 provides support for these limitations.

The appellant discloses the following as to Figure 10:

[0122] Referring now to FIG. 10, a predictive reasoning process 500 is shown. This process assists the dispute resolution specialists as well as the parties themselves in deciding a fair resolution of the dispute. First, the process 500 retrieves facts associated from the current case (step 552). Next, the process 500 searches for cases with similar facts in this database (step 554). Finally, the process 500 retrieves and summarizes and displays the outcomes of the similar cases for all parties and the dispute resolution specialist to see. Finally, the process then exits.

[0123] The search of cases with similar facts can be done using a conventional database search, or can be done using a number of machine learning systems, including case-based reasoning, neural networks, fuzzy networks, genetic algorithms (including genetic programming and classifier systems), Evolutionary Strategies, Evolutionary Programming, ADAPT program induction, cellular automata, Box Jenkins optimization, ARMA optimization and many others. Rather than applying a direct computational approach, these systems create one or more proposed solutions in the form of data and computer program entities, and iteratively alter the data and/or entities for finding known solutions to the dispute at hand.

[0124] As discussed above, the system enhances consumer's comfort and security of conducting online transactions using a combination of technology and human infrastructure that allows an objective third party to resolve disputes arising from online transactions. Disputes are resolved in as fair a manner as possible, and the dispute resolution process is conclusive, i.e., it always results in a definitive resolution. The dispute resolution process turnaround time is short. The system communicates with the disputing parties as frequently as necessary to ensure full participation and involvement. The process minimizes, where possible, lengthy or duplicative data entry by disputing parties. Further, dispute related data is treated with highest levels of security and as highly private

The Examiner asserts that there is not support for a database of an electronic marketplace or receiving at least a portion of the transaction data stored from the database of the electronic marketplace without human intervention.

Independent claims 70-73:

Claim 70 is directed to a system comprising:

an online dispute resolution system that presents an interface for receiving case information from one or more parties; and

an electronic marketplace system that includes:

a database that stores transaction data that describe transactions, and

a software object that automatically communicates the transaction data
from the database to the online dispute resolution system when transactions within the electronic marketplace are performed by members of the online dispute resolution system,

wherein the online dispute resolution system executes a dispute resolution process that utilizes the transaction data and the dispute information to assist the parties in resolving the dispute.

Claim 71 is directed to system comprising:

an online dispute resolution system having a database of case information for a dispute; and

an electronic marketplace system that includes:

a database that stores transaction data that describe transactions for buyers and sellers,

a software object executing within the electronic marketplace system that ***automatically communicates the transaction data from the database to the online dispute resolution system without human intervention in response to initiation of a dispute,*** and

a software object executing within the electronic marketplace system that queries the database of the online dispute resolution system for status for at least one user of the electronic marketplace system.

Claim 72 is directed to a system comprising:

a server that provides an electronic marketplace system;

a plurality of client computers by which buyers and sellers interact with the electronic marketplace system; and

an online dispute resolution system having at least one server that communicates with a database of the electronic marketplace system without human intervention in response to initiation of a dispute.

Claim 73 is directed to a system comprising:

an online dispute resolution system that executes a dispute resolution process;
and

an electronic marketplace system that includes:

(i) a web server that provides a centralized trading place for a plurality of buyers and a plurality of sellers,

(ii) a database that stores data, and

(iii) a software object that communicates the data from the database to the online dispute resolution system to inform the online dispute resolution system of transactions performed by the plurality of buyers and the plurality of sellers within the electronic marketplace system.

Appellant has again directed the Examiner to Figure 2B and the relevant paragraphs which disclose the following:

[0046] Referring now to FIG. 2B, a second implementation 150 of the dispute resolution system is shown. In this implementation, a customer (which can be either the seller or the buyer) or a dispute resolution specialist can access data using a web browser on a workstation 152. The data is securely transferred between the workstation 152 to a network 154. The network 154 can be the Internet or can be an intranet. A server 156 communicates with the network 154. The server 156 also communicates with a second server 158, which can be an e-commerce server such as the ColdFusion server, available from Allaire Inc. The server 158 is used as a Web Application Server to present HTML applications. These applications allow customers to file and manage disputes and dispute resolution specialists to manage cases over the Internet.

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will transparently deal with communication issues including server unavailability and performance. Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.

[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a data manager

162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

The Examiner is unable to find disclosure for the limitations of ***automatically communicating data from a database of the electronic marketplace to a database of the online dispute resolution system in response to a transaction within the electronic marketplace, the electronic marketplace storing transaction data and automatically communicating the transaction data/ a portion of the transaction data without human intervention in response to the initiation of a dispute, the electronic marketplace including a database that stores transaction data, the server communicating with the database of the electronic marketplace without human intervention, the electronic marketplace system including a database and software*** that communicates the data.

The Second and Third Grounds of Rejection

Rejections Under 35 USC 102 and 35 USC 103:

Improper reliance on Figure 1B Collins:

The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The Examiner asserts that the disclosure of the prior-filed application, Application No. 09/504,159 and this application, fail to provide adequate support or enablement in

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the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. There is no disclosure for an electronic marketplace having a separate electronic database or for transaction data to be sent from the database of the electronic marketplace without requiring manual entry of the transaction data or a software object executing with the electronic marketplace system that automatically communicated the transaction data from the database to the online dispute resolution system without human intervention in response to initiation of a dispute.

Thus, the Examiner's reliance on Collins is proper since the disclosure in 1B predates the applicant's date of disclosure. The Examiner asserts that claims 49-73 contain new matter which does not get the benefit of applicant's February 15, 2000 filing date.

The applicant's only argument as to the rejections under 35 USC 102 and 35 USC 103 is directed to Figure 1B of Collins and paragraph [0045]. The Examiner agrees that if the Board finds that appellant has sufficient support for the claim limitations that the Examiner has rejected under 35 USC 112, 1st paragraph as being directed to new matter, then Figure 1B and paragraph [0045] are not prior art.

Although the appellant has provided arguments as to whether Collins is a proper reference, for the sake of a complete Examiner's Answer, the Examiner will provide the arguments the appellant made in the amendment submitted on November 28, 2005 and the Examiner's response to these arguments.

The appellant asserted that Figure 1A of Collins makes clear that the parties manually access the Collin's complaint handling system and manually enter all data

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describing the situation. Appellant states that Collin's the provisional applications describe only a stand-alone complaint-handling system in which all parties directly access the Collin's complaint handling system and manually enter all data describing a situation. Appellant states that the Collin's provisional applications do not provide a teaching or suggestion of a system in which any form of data is automatically communicated to an online marketplace system from a marketplace, let alone to inform an online dispute resolution system of transactions within the marketplace. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which appellant relies (i.e., data automatically communicated to an online marketplace system **from a marketplace**) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Appellant is directed a recent CAFC decision, *Collegenet, Inc. v. Applyyourself, Inc.* (CAFC, 04-1202-1222, 1251, 8/2/2005) wherein the court held that "automatically" means "without human interaction, but may be human initiated or interrupted."

Therefore, the Examiner asserts that a process may be automatic even though a human initiates it.

The appellant also asserts that the single merchant database of Figure 1B is not an electronic marketplace that stores transaction data that describes transactions within the electronic marketplace between buyers and sellers of goods or services as required

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by claim 49. Appellant further asserts that in claim 49, the claimed marketplace [sic] have both a plurality of buyers and a plurality of sellers.

The claim language in claim 49 refers to the electronic marketplace storing transaction data that describes transactions within the electronic marketplace between buyers and sellers of goods or services and receiving a portion of the transaction data in accordance with a that the dispute resolution process to assist the buyers and sellers in resolving disputes.

Appellant identifies the invention in paragraph 12 as:

[0012] In a second aspect, a system for resolving online disputes includes a network; ***an electronic marketplace coupled to the network; one or more sellers selling one or more items at the marketplace; one or more buyers consuming one or more items at the marketplace; and a dispute resolution system coupled to the network to resolve a dispute between one or more buyer and seller parties, the dispute resolution system adapted to select one of two modes*** of resolving the dispute, the first mode being completely driven by an electronic agent and the second mode involving a dispute resolution specialist.

Furthermore, Collins discloses that in Figure 1a, Party A and Party B engage in a negotiation session to resolve a situation. Paragraph [0042] of Collins states that ***although Figure 1a shows only two parties there may be more than two parties engaged in a negotiation session.*** Collins identifies that a situation may be a dispute between a customer and a merchant [0037] and the transaction may occur over the Internet {0039}.

Thus, the limitation of claim 49 that to which appellant directs the argument, appears to contradict the claim language and the original disclosure.

The appellant then argues that Collins does not describe actually communicating actual transaction data from the marketplace to a dispute resolution system to assist the parties in resolving a dispute. The Examiner disagrees and directs the appellant to paragraph [0045] wherein Collins discloses that the data which may be maintained includes the number of transactions that the customer has had with the merchant, the amount of merchandise purchased with the merchant, an associated rating of the customer, and any other data perceived of as pertinent by the merchant concerning the customer. The server process, having data concerning the customer as provided by the merchant's database would grant the customer's request based upon the customer rating. Furthermore, appellant claims transaction data as being a rating in paragraph [0011].

The Examiner asserts that the appellant fails to disclose transaction data being electronically communicated from a database of the online dispute resolution system to a database of the electronic marketplace without requiring manual entry of the transaction data.

Appellant states that claim 55 requires the online dispute system to electronically communicate rating data from a database of the online dispute resolution system. Claim 55 is directed to a system of claim 49, wherein the online dispute system electronically communicates rating data.

[0011] A meta-**rating** forum on the performance of a particular party can be maintained, and the data stored on the forum regarding performances of sellers and buyers can be accessed. The data can relate to participation in the dispute resolution process, or can relate to compliance of a participant to the final decision made in the resolution of the dispute.

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Paragraph 23 also discloses using rating data.

[0023] Further, the system provides a meta-**rating** forum where data is stored on the "performance" of sellers and buyers (for example, participation in the dispute resolution process, compliance with settlement, among others). The form is applicable across sites and enables sellers and buyers to build reputation across sites where they would like to transact. This mechanism also allows offenders of the system to be highlighted.

[0049] Referring now to FIG. 3, a process 230 that provides a forum for rating buyers and sellers is shown. First, either a party such as a buyer or a seller can access the dispute resolution system (step 232). Next, the party can enter a password to access the system (step 234). If the password is correct, the process 230 allows the party to access information relating to the "performance" of another party (step 236). The process 230 then checks whether the party is finished with the checking process (step 238). If not, the process 230 loops back to step 236 to allow the party to continue looking up the performance of other parties. Alternatively, the process 230 exits.

[0050] FIG. 4 is a diagram illustrating a process 240 whereby a seller can request coverage from the dispute resolution system. Upon receipt of a request to initiate coverage, the system of FIG. 1 provides the seller with a welcome page 242 where the seller can enter his or her user identification and password information. If the user is new, the seller can enter a registration page 244 by clicking on a registration hotlink. Upon completing the registration process, the process of FIG. 4 notifies the seller of a successful registration and displays other relevant information in page 246 before looping back to the start of the process 240.

Furthermore, the Examiner asserts that the only other time the appellant discloses a rating is in the background of the invention wherein appellant discloses that the prior art Sloo discloses:

[0008] A solution disclosed in U.S. Pat. No. 5,895,450 provides a method and apparatus for handling complaints that allows complainants to lodge anonymous complaints against subjects, informs the subjects of the complaints, permits the subjects to respond to the complaints, encourages settlements of the complaints and holds the parties to the complaints accountable for their conduct while attempting to resolve the complaints. A central computer is programmed to receive complaints and responses, store the complaints and responses in individual data records, and negotiate settlements to the

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complaints. Once the disputes are resolved, the settlements or judgments are stored along with their respective complaints and responses in the data records. The central computer is also programmed to provide public access to the data records to permit viewing of the corresponding complaints, responses, and settlements for allowing other users to gauge the conduct of the subjects and to encourage the subjects to respond to the complaints in a timely and satisfactory manner. Moreover, the central computer is programmed to monitor and **rate the conduct and performance of both the complainants and the subjects during the course of the disputes**. The ratings can be used to affect the outcome of the disputes and for other purposes to hold the parties accountable for their conduct during the attempted resolution of the disputes to encourage good conduct and cooperation between the parties during the course of the disputes.

The Examiner asserts that the appellant does not disclose wherein the online dispute resolution system electronically communicates rating data from a database of the online dispute resolution system to a database of the electronic marketplace.

Moreover, Collins discloses communicating rating data in paragraph 0045.

[0045] Fig. 1b shows an alternative embodiment in which Party B has an attached database 160. In this embodiment Party B is a merchant that maintains records concerning customers. Data which may be maintained includes the number of transactions that the customer has had with the merchant, the amount of merchandise purchased with the merchant, an associated **rating** of the customer, and any other data perceived of as pertinent by the merchant concerning the customer. The associated **rating** of the customer provides a mechanism for the corresponding server process to select the level that the customer should begin resolution. As explained with respect to Fig. 8a there are three possible levels for resolution of the situation. The first being computerized negotiation, the second being mediation, and the third being arbitration. The second and third levels both involve interaction with a live third party for resolving the conflict. If a customer has **a high customer rating** which indicates the loyalty of the customer as represented by the number, volume, or value of purchases the merchant may wish to bypass the computer negotiation phase and move directly to level two or level three. Additionally, this customer rating may allow the customer with a high **rating** to select the resolution mechanism. For example, a customer with a high rating which needs resolution of the situation quickly may indicate that mediation or arbitration is the preferred method of resolution. The server process, having the data

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concerning the customer as provided by the merchant's database, would grant the customer's request based upon the customer **rating**. The customer **rating** additionally provides a mechanism for queuing negotiations. For example, if there are multiple situations and only limited resources, for example, the number of mediators and arbitrators or the capacity of the server process, the server process uses the customer **rating** for adjusting the order for which the situations will be addressed.

Moreover, the Examiner asserts that the type of data being transferred in the system of claim 55 is non-functional descriptive data, not related to the structure of the system.

The appellant asserts that claim 56 specifically requires that the online dispute resolution system maintain the rating data based on compliance of the buyers and sellers. The Examiner notes that claim 56 is directed to a system wherein the online dispute resolution system maintains the rating data based on compliance of the buyers and sellers to a final decisions. The type of rating data communicated in a system claim is non-functional descriptive data, not related to the structure of the system.

Claims 49, 53-54, 58

Appellant states that claim 53 requires the online dispute resolution system further comprise a server to service electronic request issued by a server within the electronic marketplace. Claim 53 is directed to the system of claim 49 wherein the online dispute system comprises a server for exchanging data. The Examiner asserts that Collins discloses a system with a server (120) which is fully capable of exchanging data. Paragraph 0048 of Collins states that ***it should be clear that the parties to the situation are in communication with one another through the network via the server process as shown with respect to 1a.***

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Appellant states that claim 54 requires a data manager software application to automatically communicate data between databases. Claim 54 is directed to the system of claim 49, wherein the dispute resolution system comprises a data manager software application to **automatically** communicate data between a database on the online dispute resolution system and a database of the electronic marketplace.

Appellant identifies the data manager in paragraph 0048.

[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a **data manager 162**. **The data manager 162** in turn communicates with one or more partner databases 164

The appellant identifies a software program in the following excerpts:

[0125] The techniques described here may be implemented in hardware or **software**, or a combination of the two. In one embodiment, the invention is implemented in a computer program executing in a computer system. Such a computer system may include a processor, a data storage system, at least one input device, and an output device. FIG. 11 illustrates one such computer system 600, including a processor (CPU) 610, a RAM 620, a ROM 622 and an I/O controller 630 coupled by a CPU bus 628. The I/O controller 630 is also coupled by an I/O bus 650 to input devices such as a keyboard 660, a mouse 670, and output devices such as a monitor 680. Additionally, one or more data storage devices 692 are connected to the I/O bus using an I/O interface 690. Further, variations to the basic computer system of FIG. 11 are within the scope of the present invention. For example, instead of using a mouse as user input devices, a pressure-sensitive pen, digitizer or tablet may be used.

[0126] The above-described **software** can be implemented in a high level procedural or object-oriented programming language to operate on a dedicated or embedded system. **Software** may include microcode or conventional program implemented in a high level procedural or object-oriented programming language to communicate with a computer system. However, the programs can be implemented in assembly or machine language, if desired. In any case, the language may be a compiled or interpreted language.

[0127] Each such **computer program** can be stored on a storage medium or device (e.g., CD-ROM, hard disk or magnetic diskette) that is readable by a

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general or special purpose programmable computer for configuring and operating the computer when the storage medium or device is read by the computer to perform the procedures described. The system also may be implemented as a computer-readable storage medium, configured with a computer program, where the storage medium so configured causes a computer to operate in a specific and predefined manner.

[0128] While the invention has been shown and described with reference to one or more embodiments thereof, those skilled in the art will understand that the above and other changes in form and detail may be made without departing from the spirit and scope of the following claims.

Claim 25. An online dispute resolution system comprising a software program to automatically assemble case information that describes an electronic commerce dispute between parties from records provided by the parties, wherein the software module presents sample resolutions to the parties to aid the parties in resolving the case, and disaggregates elements of the dispute and presents the case information in a form that identifies areas of agreement between the parties.

Collins discloses a medium and a computer program product for facilitating agreement over the network [0005] and data being transferred (claim 22).

The appellant argues that Collins does not disclose transaction data stored within the electronic marketplace without requiring manual entry of the transaction data. The appellant argues that the position data in Collins is received from the parties and not from a database of the electronic marketplace.

Appellant is directed to paragraph 0020 of applicant's disclosure where appellant discloses:

[0020] The system also facilitates dispute resolution through a number of tools. The techniques support various information gathering and evaluation stages to prompt a timely settlement between the parties. The dispute resolution staff is aided with a timely and efficient gathering of information from which to formulate a settlement proposal. Moreover, these techniques facilitate a prompt assessment of the status of a claim. ***The techniques also automatically assemble data from records provided by both parties and calculate relevant settlement proposals to be sent to the parties.***

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Appellant identifies the invention in paragraph 21:

[0021] The system also applies automatic tools such as an intelligent predictive reasoning system (also called case-based reasoning (CBR) system). CBR assists parties in disputes by indicating the likelihood of a particular outcome. This helps parties request reasonable solutions thereby increasing the likelihood of an easy settlement. It also assists the dispute resolution specialist in identifying similar past cases and indicating likely outcomes and their associated certainty. The system matches new disputes to "cases" from a historical database and then adapting successful outcomes from the past to the current situation. This technique increases the efficiency of the dispute resolution process and provides a high degree of decision uniformity. This effectively creates a semi-automated precedent-based resolution system.

Thus, the applicant's invention assembles position data (data from records) provided by the parties (both parties).

NOTE: Appellant is directed to a recent CAFC decision, *Collegenet, Inc. v. Applyyourself, Inc.* (CAFC, 04-1202-1222, 1251, 8/2/2005) wherein the court held that "automatically" means "without human interaction, but may be human initiated or interrupted." Therefore, a process may be automatic even though a human initiates it.

Furthermore, the applicant's arguments do not follow what the appellant has disclosed as the invention in the specification.

[0056] After purchase, if the buyer is dissatisfied with the online transaction previously entered into, the buyer can file a complaint if he or she desires. FIG. 6 illustrates a complaint prefiling process. First, a seller or buyer initiates a dispute (step 282). The initiation of the dispute may be accomplished by answering the series of questions posed by the complaint wizard (step 284). The person filing out the form is called a complainant. The complaint wizard 284 tries to determine the nature of the dispute and if it is simple in nature, will offer suggestions for resolving the dispute without involving the dispute resolution system. If the dispute is not so simple in nature or if the complainant decides they want the dispute resolution system to resolve their dispute, the complaint wizard asks a further set of questions to determine the eligibility of the dispute (step 286). In this process, before the system accepts a complaint, two eligibility criteria have to be met: (1)

the seller is covered or enrolled in the system; and, (2) the transaction occurred after coverage began. ***The complaint wizard then guides the complainant by selecting whether the complainant is a buyer or the seller. The complaint wizard 284 also prompts the complainant to enter the other party's user identification number and the date of the transaction, and notifies the user that a particular fee will be charged to resolve the dispute. If the complaint wizard 284 determines that the dispute is not eligible, the complaint wizard 284 displays a message that the system cannot resolve the dispute because the seller is not enrolled in the system or that the transaction occurred before coverage was available (step 288).*** The wizard 284 then loops back to receive additional disputes from other complainants (step 282).

[0057] From step 286, if the complaint wizard determines that the transaction is covered by the system, the complaint wizard 284 determines whether the complainant is a seller or a buyer. If the complainant is a seller, the complaint wizard 284 indicates that a fee to file a dispute will be billed to the previously entered credit card account (step 288). Next, the wizard 284 guides the user through the filling out of a complaint form (step 290). If the user does not wish to initiate the complaint, the system of FIG. 6 loops back to step 282 to handle the next dispute.

[0058] From step 286, if the transaction is covered by the system (i.e., the seller is a registered user and covered for that marketplace and the transaction occurred after the coverage began), the complaint wizard 284 indicates to the user that there is a fee to file the dispute that will be charged to the credit card as previously entered. The complaint wizard also prompts the user to enter credit card information and submits the information to a credit card provider to get approval. From step 292, if the credit card information is incorrect, the complaint wizard 284 indicates that the credit card was not approved and requests the user to either re-enter the information, in which case the process loops back to step 292 or alternatively, if the user wishes to cancel the transaction, the process loops back to step 282 to continue handling additional disputes. From step 286, if the buyer is an unregistered buyer, the system proceeds to step 270 to perform buyer registration.

[0059] The dispute resolution process is conclusive, i.e., it always results in a definitive resolution. There are four methods by which the system yields a definitive resolution. They are as follows:

[0060] Quick Resolution. ***The desired settlement entered by each party is compared and if there is a 100% match on selected items, e.g., monetary***

settlement, the dispute automatically settles and the parties are informed via email. The desired settlement items that are required to match is likely to evolve over time to more be more complex than a simple comparison--but the concept of Quick Resolution will remain unchanged

[0061] Independent Resolution. After viewing the facts of the complaint filed, ***the respondent is given the option to directly resolve the case with the complainant.*** If the respondent chooses to do so, the complainant is notified and the parties are given 3 weeks to resolve the case directly. Either party may re-activate the case with the system and ask for a dispute resolution specialist to be assigned to the case at any point within the 3 weeks or for 30 days after that. The respondent may also be shown sample resolutions from the system's case-history database to help him/her directly resolve the case

[0062] Conciliation. If both the above options do not work or are not applicable, ***the system assigns a dispute resolution specialist to the case.*** The dispute resolution specialist first tries to "mediate" a settlement between the parties, i.e., tries to get the parties to agree to a mutually agreeable settlement. This is carried out via email exchange between the dispute resolution specialist and the parties. Exchanges between the parties occurs via the system's website. One party does not see the other party's responses.

[0063] Resolution. Where conciliation is not possible, ***the dispute resolution specialist passes a resolution based on the facts of the case presented.*** The dispute resolution specialist does this by collecting the necessary information and evidence from the parties. The parties can see the information evidence submitted by the other party. The parties are also given the opportunity to respond to the other party's submissions.

Thus, it appears that once the status is determined, ie, the parties are eligible, then the transaction passes to the dispute resolution system. **There is no mention of receiving position data from a database of an electronic marketplace.**

As for Collins not qualifying as prior art, this has been already discussed above.

Claims 52, 64 and 65:

As to claim 52, the appellant argues that Collins does not disclose communicating status information to a database of the electronic marketplace.

Although the Examiner asserts that the appellant does not have support in the original

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disclosure for the limitations of claim 52, the Examiner addresses the limitations and arguments below.

Claim 52 is directed to a system and is dependent on claim 49. Claim 52 is directed to a membership profile database and a communication structure.

Claim 64 is directed to the system of claim 49 wherein the online dispute resolution system receives an electronic query from the marketplace and provides status of a marketplace member.

Claim 65 is directed to a method comprising receiving with the online dispute resolution system an electronic query from the electronic marketplace and electronically providing a status associated with one of the users from a database of the online dispute resolution system to the database of the electronic marketplace.

The appellant identifies status in paragraph 0047:

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will transparently deal with communication issues including server unavailability and performance. **Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.**

It appears that the status that appellant is referring to is a determination of whether a party is enrolled and thus eligible to participate in the ADR system.

Appellant states that claim 52 requires an online dispute resolution having the novel ability to actually communicate status information back to the electronic

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marketplace. Appellant is reminded that claim 52 is directed to a system and the system of Collins discloses databases as set forth in [0042] and the system of Collins is fully capable of communicating status information, i.e., eligibility to participate.

The appellant's registration process is identified as follows:

[0050] **FIG. 4 is a diagram illustrating a process 240 whereby a seller can request coverage from the dispute resolution system.** Upon receipt of a request to initiate coverage, the system of FIG. 1 provides the seller with a welcome page 242 where the seller can enter his or her user identification and password information. If the user is new, the seller can enter a registration page 244 by clicking on a registration hotlink. Upon completing the registration process, the process of FIG. 4 notifies the seller of a successful registration and displays other relevant information in page 246 before looping back to the start of the process 240.

[0051] From the welcome page 242, if the seller enters its identification and password information, **the process of FIG. 4 checks if the seller is already covered against a particular partner**, the process of FIG. 4 notifies the seller with a page 248 that coverage has already been secured for the desired partner. The page 248 also allows the user to retrieve the account history information or to jump to the beginning of the process 240.

[0052] From the welcome page 242, if the seller enters its identification and password information, and if the seller is registered with the system of FIG. 1 but is not covered for transactions with the desired partner, **the process of FIG. 4 secures coverage and displays a page 250 to notify the seller that transactions with the desired partner are now covered by the dispute resolution system.** The page 250 also allows the seller to jump to a personalized page in the dispute resolution system, or alternatively to jump back to the beginning of the process of FIG. 4 to continue accepting requests for coverage.

[0053] **In all the above cases, if the seller's coverage is successful, the process updates a membership profile database, notifies the appellant of acceptance, and sends indicia such as a medallion to be displayed on the seller's point of sale.**

[0054] **FIG. 5 shows a buyer registration process 270 for enrolling a buyer with the dispute resolution system of FIG. 1.** First, the system provides a registration page 272 that guides the buyer through a registration process. The page 272 requests the user to enter information in an input box 274. The

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information required includes certain unique user identification information such as his or her electronic mail address, name, credit card type and number, and billing address. Once the dispute being filed passes the pre-screen, the buyer is charged with a filing fee. Additionally, a user agreement is displayed in a scrolling text box 276. The agreement binds the appellant to the online dispute resolution process. The buyer can view this agreement and, if acceptable, click on an acceptance button 278. After the user has filled out all items in the screen 272, the user can then click on a submit button 279 to enroll in the system.

[0055] When the submit button 279 is selected, the process then checks whether the buyer is authorized under his or her credit arrangement. If not, the process requests the user to reenter his or her identification information.

Alternatively, if the user is authorized, the process updates a membership profile database, notifies the appellant of acceptance, and buyer can proceed to file the dispute. During normal transactions, the buyer can check whether a dispute resolution system logo is shown on the seller's site. If not, the buyer can request the seller to be a member of the dispute resolution system. If the seller agrees to join the dispute resolution system, a registration process is performed. Alternatively, if the seller does not agree to the terms of the dispute resolution system, the buyer makes a decision as to whether he or she is willing to commit to purchasing without the appropriate dispute resolution assurance and either proceeds with the transaction or cancels the transaction.

[0056] After purchase, if the buyer is dissatisfied with the online transaction previously entered into, the buyer can file a complaint if he or she desires. FIG. 6 illustrates a complaint prefiling process. First, a seller or buyer initiates a dispute (step 282). The initiation of the dispute may be accomplished by answering the series of questions posed by the complaint wizard (step 284). The person filing out the form is called a complainant. The complaint wizard 284 tries to determine the nature of the dispute and if it is simple in nature, will offer suggestions for resolving the dispute without involving the dispute resolution system. **If the dispute is not so simple in nature or if the complainant decides they want the dispute resolution system to resolve their dispute, the complaint wizard asks a further set of questions to determine the eligibility of the dispute (step 286).** In this process, before the system accepts a complaint, two eligibility criteria have to be met: (1) the seller is covered or enrolled in the system; and, (2) the transaction occurred after coverage began. The complaint wizard then guides the complainant by selecting whether the complainant is a buyer or the seller. The complaint wizard 284 also prompts the complainant to enter the other party's user identification number and the date of the transaction, and notifies the user that a particular fee will be charged to resolve the dispute. If the

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complaint wizard 284 determines that the dispute is not eligible, the complaint wizard 284 displays a message that the system cannot resolve the dispute because the seller is not enrolled in the system or that the transaction occurred before coverage was available (step 288). The wizard 284 then loops back to receive additional disputes from other complainants (step 282).

[0057] From step 286, if the complaint wizard determines that the transaction is covered by the system, the complaint wizard 284 determines whether the complainant is a seller or a buyer. If the complainant is a seller, the complaint wizard 284 indicates that a fee to file a dispute will be billed to the previously entered credit card account (step 288). Next, the wizard 284 guides the user through the filling out of a complaint form (step 290). If the user does not wish to initiate the complaint, the system of FIG. 6 loops back to step 282 to handle the next dispute.

[0058] From step 286, if the transaction is covered by the system (i.e., the seller is a registered user and covered for that marketplace and the transaction occurred after the coverage began), the complaint wizard 284 indicates to the user that there is a fee to file the dispute that will be charged to the credit card as previously entered. The complaint wizard also prompts the user to enter credit card information and submits the information to a credit card provider to get approval. From step 292, if the credit card information is incorrect, the complaint wizard 284 indicates that the credit card was not approved and requests the user to either re-enter the information, in which case the process loops back to step 292 or alternatively, if the user wishes to cancel the transaction, the process loops back to step 282 to continue handling additional disputes. From step 286, if the buyer is an unregistered buyer, the system proceeds to step 270 to perform buyer registration.

Collins discloses:

[0046] Fig. 2 is a flow chart showing the steps taken by parties in communication with a central processor to begin a negotiation. Step 300 begins the negotiation initialization. This stage might also be called the **registration stage**, as it includes identification of relevant parties and **determination of eligibility to participate**. Following the registration stage, the method proceeds to Step 400 which involves issue definition and clarification.

Thus, Collins discloses the ability to communicate status information, i.e., whether the parties are eligible to participate.

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Claim 57:

Appellant argues that Collins cannot be used as a 102 rejection on claim 57.

Claim 57 is directed to a system and is dependent on claim 49. Thus, the Examiner has addressed the limitations of claim 57 with claim 49. The information presented on a webpage of a system claim does not functionally relate to the structure of the system. The system still comprises the online dispute resolution system coupled to an electronic marketplace. Furthermore, the Examiner has addressed limitations set forth in 57 in the rejection of the method presented in claim 63.

Claim 61:

The appellant argues that claim 61 requires electronically communicating data that relates to the online dispute resolution process to the database of the electronic marketplace and updating the electronic marketplace based on the data received from the dispute resolution system.

As stated earlier, paragraphs 0047-0048 do not show support for these limitations.

[0047] The server 158 receives data from a set of remote objects that reside in the partner's system 166. The remote objects, which can be enterprise Java Beans, are provided to allow business partners of the system to integrate with the dispute resolution system. Both DCOM objects and Enterprise Java Beans models can be used. These objects provide functionality to receive and send specific information to the dispute resolution system 130. The objects will transparently deal with communication issues including server unavailability and performance. ***Example functionality includes informing the dispute resolution system 130 of relevant partner transactions and allowing partners to query the dispute resolution system data such as the status of a specific marketplace seller 104.***

[0048] The server 158 in turn communicates with a structured query language (SQL) server 160. The SQL server 160 also communicates with a data manager

162. The data manager 162 in turn communicates with one or more partner databases 164. Partners integrate with the system, by exposing relevant functionality on their respective websites, for example, allowing customers to dispute a transaction. This integration is achieved by a predefined set of URLs that a partner embeds in the partner's HTML application.

The appellant states the present invention describes a registration process in which the online dispute resolution system 130 updates a membership profile on the seller's point of sale to indicate membership. Appellant discloses the following:

[0050] FIG. 4 is a diagram illustrating a process 240 whereby a seller can request coverage from the dispute resolution system. Upon receipt of a request to initiate coverage, the system of FIG. 1 provides the seller with a welcome page 242 where the seller can enter his or her user identification and password information. ***If the user is new, the seller can enter a registration page 244 by clicking on a registration hotlink. Upon completing the registration process, the process of FIG. 4 notifies the seller of a successful registration and displays other relevant information in page 246 before looping back to the start of the process 240.***

[0051] From the welcome page 242, if the seller enters its identification and password information, the process of FIG. 4 checks if the seller is already covered against a particular partner, the process of FIG. 4 notifies the seller with a page 248 that coverage has already been secured for the desired partner. The page 248 also allows the user to retrieve the account history information or to jump to the beginning of the process 240.

[0052] ***From the welcome page 242, if the seller enters its identification and password information, and if the seller is registered with the system of FIG. 1 but is not covered for transactions with the desired partner, the process of FIG. 4 secures coverage and displays a page 250 to notify the seller that transactions with the desired partner are now covered by the dispute resolution system.*** The page 250 also allows the seller to jump to a personalized page in the dispute resolution system, or alternatively to jump back to the beginning of the process of FIG. 4 to continue accepting requests for coverage.

[0053] In all the above cases, ***if the seller's coverage is successful, the process updates a membership profile database, notifies the appellant of acceptance, and sends indicia such as a medallion to be displayed on the***

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seller's point of sale.

[0054] FIG. 5 shows a buyer registration process 270 for enrolling a buyer with the dispute resolution system of FIG. 1. First, the system provides a registration page 272 that guides the buyer through a registration process. The page 272 requests the user to enter information in an input box 274. The information required includes certain unique user identification information such as his or her electronic mail address, name, credit card type and number, and billing address. Once the dispute being filed passes the pre-screen, the buyer is charged with a filing fee. Additionally, a user agreement is displayed in a scrolling text box 276. The agreement binds the appellant to the online dispute resolution process. The buyer can view this agreement and, if acceptable, click on an acceptance button 278. After the user has filled out all items in the screen 272, the user can then click on a submit button 279 to enroll in the system.

[0055] When the submit button 279 is selected, the process then checks whether the buyer is authorized under his or her credit arrangement. If not, the process requests the user to reenter his or her identification information. Alternatively, if the user is authorized, the process ***updates a membership profile database***, notifies the appellant of acceptance, and buyer can proceed to file the dispute. During normal transactions, the buyer can check whether a dispute resolution system logo is shown on the seller's site. If not, the buyer can request the seller to be a member of the dispute resolution system. If the seller agrees to join the dispute resolution system, a registration process is performed. Alternatively, if the seller does not agree to the terms of the dispute resolution system, the buyer makes a decision as to whether he or she is willing to commit to purchasing without the appropriate dispute resolution assurance and either proceeds with the transaction or cancels the transaction.

[0056] After purchase, if the buyer is dissatisfied with the online transaction previously entered into, the buyer can file a complaint if he or she desires. FIG. 6 illustrates a complaint prefiling process. ***First, a seller or buyer initiates a dispute (step 282). The initiation of the dispute may be accomplished by answering the series of questions posed by the complaint wizard (step 284). The person filing out the form is called a complainant. The complaint wizard 284 tries to determine the nature of the dispute and if it is simple in nature, will offer suggestions for resolving the dispute without involving the dispute resolution system. If the dispute is not so simple in nature or if the complainant decides they want the dispute resolution system to resolve their dispute, the complaint wizard asks a further set of questions to determine the eligibility of the dispute (step 286). In this process, before the system accepts a complaint, two eligibility***

criteria have to be met: (1) the seller is covered or enrolled in the system; and, (2) the transaction occurred after coverage began. The complaint wizard then guides the complainant by selecting whether the complainant is a buyer or the seller. The complaint wizard 284 also prompts the complainant to enter the other party's user identification number and the date of the transaction, and notifies the user that a particular fee will be charged to resolve the dispute. If the complaint wizard 284 determines that the dispute is not eligible, the complaint wizard 284 displays a message that the system cannot resolve the dispute because the seller is not enrolled in the system or that the transaction occurred before coverage was available (step 288). The wizard 284 then loops back to receive additional disputes from other complainants (step 282).

[0057] From step 286, if the complaint wizard determines that the transaction is covered by the system, the complaint wizard 284 determines whether the complainant is a seller or a buyer. If the complainant is a seller, the complaint wizard 284 indicates that a fee to file a dispute will be billed to the previously entered credit card account (step 288). Next, the wizard 284 guides the user through the filling out of a complaint form (step 290). If the user does not wish to initiate the complaint, the system of FIG. 6 loops back to step 282 to handle the next dispute.

[0058] From step 286, if the transaction is covered by the system (i.e., the seller is a registered user and covered for that marketplace and the transaction occurred after the coverage began), the complaint wizard 284 indicates to the user that there is a fee to file the dispute that will be charged to the credit card as previously entered. The complaint wizard also prompts the user to enter credit card information and submits the information to a credit card provider to get approval. From step 292, if the credit card information is incorrect, the complaint wizard 284 indicates that the credit card was not approved and requests the user to either re-enter the information, in which case the process loops back to step 292 or alternatively, if the user wishes to cancel the transaction, the process loops back to step 282 to continue handling additional disputes. From step 286, if the buyer is an unregistered buyer, the system proceeds to step 270 to perform buyer registration.

Thus, it appears that the communication that appellant is referring to is the status data being communicated back to the party filing the complaint and the updating being the updating of the enrollment in the membership profile database.

Furthermore, Collins discloses each party sending position data over the network to the central server 120. Based on the data provided, the server generates data characterizing a zone of possible agreement (ZOPA) and the data is rendered as a set of components in a template and the template is provided to both parties (data being sent from the online dispute resolution system to the marketplace [0042]. All data communications between the parties and the central server process, as well as communications between the parties, being captured and recorded (updated) in a negotiation log file 150 by the server [0043]. Collins also discloses making an eligibility determination [0047].

Claims 66 and 67:

Appellant states that claim 66 requires a dispute resolution system electronically coupled to an electronic marketplace for buyers and sellers of goods and services. Appellant states that claim 67 is directed to a method and system for providing online dispute resolution system electronically coupled to an electronic marketplace that provides a website by which users buy and sell items, wherein the electronic marketplace stores transaction data that describes transactions within the marketplace.

Collins discloses

[0037] The embodiment of Fig. 1a illustrates a method of facilitating agreement over a network among a plurality of participants. The agreement being sought pertains to what is referred to as a "situation." **A "situation" may be a dispute between a customer and a merchant, or a "situation" may be the negotiation of an agreement.** The terms "transaction", "situation" and "dispute" will be used interchangeably herein. In the resolution of the situation multiple issues may be presented. While we refer to a "network," it will be understood to include the Internet as well as other networks, including local area networks and wide area networks. The term "template" as used in the following description and appended claims shall mean a graphical user interface

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for display on a computer for the entry of information or the selection of one or more listed choices.

[0038] In one embodiment, for example, as described in further detail below, a series of remote computer terminals may be in communication over a network with a server. In a further embodiment, the server may generate hypertext markup language (HTML) encoded pages to be displayed on the screens of the terminals, and appropriate HTML encoded pages may be used for supplying pertinent data to the server. Thus embodiments of the invention may be implemented over the **World Wide Web**.

[0039] In one potential application, for example, **a customer may have a dispute with a merchant. The dispute may arise in connection with a transaction occurring over the Internet** or the dispute may involve a transaction that occurred under other circumstances. A dispute may also arise in connection with multiple transactions related to one customer or one customer account. For example, a customer with a credit card account may dispute one or more items appearing on a credit card statement, each item corresponding to a purchase transaction. The customer may contact the issuer of the credit card to resolve such a dispute.

Claims 66 and 67 are directed to automatically communicating the transaction data stored to the online dispute resolution system without human intervention and utilizing the transaction data in accordance with a dispute resolution process to assist the users in resolving disputes.

Collins discloses:

[0045] Fig. 1b shows an **alternative embodiment in which Party B has an attached database 160. In this embodiment Party B is a merchant that maintains records concerning customers. Data which may be maintained includes the number of transactions that the customer has had with the merchant, the amount of merchandise purchased with the merchant, an associated rating of the customer, and any other data perceived of as pertinent by the merchant concerning the customer. The associated rating of the customer provides a mechanism for the corresponding server process to select the level that the customer should begin resolution.** As explained with respect to Fig. 8a there are three possible levels for resolution of the situation. The first being computerized negotiation, the second being mediation, and the third being arbitration. The second and third levels both

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involve interaction with a live third party for resolving the conflict. If a customer has a high customer rating which indicates the loyalty of the customer as represented by the number, volume, or value of purchases the merchant may wish to bypass the computer negotiation phase and move directly to level two or level three. Additionally, this customer rating may allow the customer with a high rating to select the resolution mechanism. For example, a customer with a high rating which needs resolution of the situation quickly may indicate that mediation or arbitration is the preferred method of resolution. **The server process, having the data concerning the customer as provided by the merchant's database, would grant the customer's request based upon the customer rating. The customer rating additionally provides a mechanism for queuing negotiations.** For example, if there are multiple situations and only limited resources, for example, the number of mediators and arbitrators or the capacity of the server process, **the server process uses the customer rating for adjusting the order for which the situations will be addressed.**

The marketplace stores transaction data and the transaction data is communicated to the server and utilized to assist the users in resolving the disputes (the server process having the data concerning the customer as provided by the merchant's database).

NOTE: Appellant is directed a recent CAFC decision, *Collegenet, Inc. v. Applyyourself, Inc.* (CAFC, 04-1202-1222, 1251, 8/2/2005) wherein the court held that "automatically" means "without human interaction, but may be human initiated or interrupted." Therefore, a process may be automatic even though a human initiates it.

Appellant further argues that claim 66 specifically requires that the claimed marketplace have both a plurality of buyers and a plurality of sellers. The claim language of claim 66 identifies a marketplace for buyers and sellers of goods and services. The claim language of claim 67 states that the electronic marketplace provides a website by which users buy and sell items. Appellant has not claimed a plurality of buyers and sellers.

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Appellant identifies the invention as:

[0012] In a second aspect, a system for resolving online disputes includes a network; ***an electronic marketplace coupled to the network; one or more sellers selling one or more items at the marketplace; one or more buyers consuming one or more items at the marketplace; and a dispute resolution system coupled to the network to resolve a dispute between one or more buyer and seller parties, the dispute resolution system adapted to select one of two modes*** of resolving the dispute, the first mode being completely driven by an electronic agent and the second mode involving a dispute resolution specialist.

[0041] The seller 104 may be a manufacturer. The marketplace 102 and the seller 104 can communicate directly with each other, or can communicate over a network 120. The network 120 can be a wide area network such as the Internet. The one or more consumers 106 can communicate with the marketplace 102 and indirectly the seller 104 over the network 120. A multiparty community 110 having a first party 112, a second party 114 and an nth party 116 can communicate with the network 120. Further, the first party 112, second party 114 and nth party 116 can communicate directly with each other.

Furthermore, Collins discloses that in Figure 1a, Party A and Party B engage in a negotiation session to resolve a situation. ***Although Figure 1a shows only two parties there may be more than two parties engaged in a negotiation session*** [0042] (thus a plurality).

The appellant argues that Collins has no teaching whatsoever that describes transaction data being electronically communicated from a database of the marketplace to a database of an online dispute resolution system.

The appellant argues that the position data in Collins is received from the parties and not from a database of the electronic marketplace.

Appellant is directed to paragraph 0020 wherein appellant discloses:

[0020] The system also facilitates dispute resolution through a number of tools. The techniques support various information gathering and evaluation

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stages to prompt a timely settlement between the parties. The dispute resolution staff is aided with a timely and efficient gathering of information from which to formulate a settlement proposal. Moreover, these techniques facilitate a prompt assessment of the status of a claim. ***The techniques also automatically assemble data from records provided by both parties and calculate relevant settlement proposals to be sent to the parties.***

Appellant further identifies the invention in paragraph 21:

[0021] The system also applies automatic tools such as an intelligent predictive reasoning system (also called case-based reasoning (CBR) system). CBR assists parties in disputes by indicating the likelihood of a particular outcome. This helps parties request reasonable solutions thereby increasing the likelihood of an easy settlement. It also assists the dispute resolution specialist in identifying similar past cases and indicating likely outcomes and their associated certainty. The system matches new disputes to "cases" from a historical database and then adapting successful outcomes from the past to the current situation. This technique increases the efficiency of the dispute resolution process and provides a high degree of decision uniformity. This effectively creates a semi-automated precedent-based resolution system.

Thus, the applicant's invention assembles position data (data from records) provided by the parties (both parties).

Furthermore, the applicant's arguments do not follow what the appellant has disclosed as the invention in the specification.

[0056] After purchase, if the buyer is dissatisfied with the online transaction previously entered into, the buyer can file a complaint if he or she desires. FIG. 6 illustrates a complaint profiling process. First, a seller or buyer initiates a dispute (step 282). The initiation of the dispute may be accomplished by answering the series of questions posed by the complaint wizard (step 284). The person filing out the form is called a complainant. The complaint wizard 284 tries to determine the nature of the dispute and if it is simple in nature, will offer suggestions for resolving the dispute without involving the dispute resolution system. If the dispute is not so simple in nature or if the complainant decides they want the dispute resolution system to resolve their dispute, the complaint wizard asks a further set of questions to determine the eligibility of the dispute (step 286). In this process, before the system accepts a complaint, two eligibility criteria have to be met: (1) the seller is covered or enrolled in the system; and, (2) the transaction occurred after coverage began. ***The complaint wizard then guides the***

complainant by selecting whether the complainant is a buyer or the seller. The complaint wizard 284 also prompts the complainant to enter the other party's user identification number and the date of the transaction, and notifies the user that a particular fee will be charged to resolve the dispute. If the complaint wizard 284 determines that the dispute is not eligible, the complaint wizard 284 displays a message that the system cannot resolve the dispute because the seller is not enrolled in the system or that the transaction occurred before coverage was available (step 288). The wizard 284 then loops back to receive additional disputes from other complainants (step 282).

[0057] From step 286, if the complaint wizard determines that the transaction is covered by the system, the complaint wizard 284 determines whether the complainant is a seller or a buyer. If the complainant is a seller, the complaint wizard 284 indicates that a fee to file a dispute will be billed to the previously entered credit card account (step 288). Next, the wizard 284 guides the user through the filling out of a complaint form (step 290). If the user does not wish to initiate the complaint, the system of FIG. 6 loops back to step 282 to handle the next dispute.

[0058] From step 286, if the transaction is covered by the system (i.e., the seller is a registered user and covered for that marketplace and the transaction occurred after the coverage began), the complaint wizard 284 indicates to the user that there is a fee to file the dispute that will be charged to the credit card as previously entered. The complaint wizard also prompts the user to enter credit card information and submits the information to a credit card provider to get approval. From step 292, if the credit card information is incorrect, the complaint wizard 284 indicates that the credit card was not approved and requests the user to either re-enter the information, in which case the process loops back to step 292 or alternatively, if the user wishes to cancel the transaction, the process loops back to step 282 to continue handling additional disputes. From step 286, if the buyer is an unregistered buyer, the system proceeds to step 270 to perform buyer registration.

[0059] The dispute resolution process is conclusive, i.e., it always results in a definitive resolution. There are four methods by which the system yields a definitive resolution. They are as follows:

[0060] Quick Resolution. **The desired settlement entered by each party is compared and if there is a 100% match on selected items, e.g., monetary settlement, the dispute automatically settles and the parties are informed via email.** The desired settlement items that are required to match is likely to evolve over time to more be more complex than a simple comparison--but the

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concept of Quick Resolution will remain unchanged

[0061] Independent Resolution. After viewing the facts of the complaint filed, ***the respondent is given the option to directly resolve the case with the complainant.*** If the respondent chooses to do so, the complainant is notified and the parties are given 3 weeks to resolve the case directly. Either party may re-activate the case with the system and ask for a dispute resolution specialist to be assigned to the case at any point within the 3 weeks or for 30 days after that. The respondent may also be shown sample resolutions from the system's case-history database to help him/her directly resolve the case

[0062] Conciliation. If both the above options do not work or are not applicable, ***the system assigns a dispute resolution specialist to the case.*** The dispute resolution specialist first tries to "mediate" a settlement between the parties, i.e., tries to get the parties to agree to a mutually agreeable settlement. This is carried out via email exchange between the dispute resolution specialist and the parties. Exchanges between the parties occurs via the system's website. One party does not see the other party's responses.

[0063] Resolution. Where conciliation is not possible, ***the dispute resolution specialist passes a resolution based on the facts of the case presented.*** The dispute resolution specialist does this by collecting the necessary information and evidence from the parties. The parties can see the information evidence submitted by the other party. The parties are also given the opportunity to respond to the other party's submissions.

Thus, it appears that once the status is determined, ie, the parties are eligible, then the transaction passes to the dispute resolution system. **There is no mention of receiving position data from a database of an electronic marketplace.**

Claim rejection under 35 USC 103:

Claim 62 is a method wherein updating the electronic marketplace comprises displaying in the electronic marketplace visual indicia associated with users of the electronic marketplace that participate in the system and controlling the appearance of the indicia as a function of data received from the dispute resolution system for the users in response to resolution of the dispute.

First, appellant discloses the following:

[0011] Visual cues can be provided to highlight agreements between the parties. A meta-rating forum on the performance of a particular party can be maintained, and the data stored on the forum regarding performances of sellers and buyers can be accessed. The data can relate to participation in the dispute resolution process, or can relate to compliance of a participant to the final decision made in the resolution of the dispute. An offender in the dispute resolution system can be highlighted. A market-based system can be used for assigning a specialist to a particular dispute. The dispute resolution system can be provided as an insurance covering transactions, where a seller in a transaction is a registered subscriber before a transaction is insured. **A visual indicia can be used to indicate membership in the dispute resolution process. The visual indicia can be a medallion.** The system can emulate a court for on-line transaction parties.

[0053] In all the above cases, if the seller's coverage is successful, the process updates a membership profile database, notifies the appellant of acceptance, and **sends indicia such as a medallion to be displayed on the seller's point of sale.**

4. A method for integrating an online dispute resolution system with an electronic marketplace to allow users of the electronic marketplace to resolve disputes and provide users of the electronic assurance that disputes will be resolved, the method comprising: providing an electronic marketplace as a website that is accessed by users via a computer network and enables the users to buy and sell items; indicating within the electronic marketplace website the availability of a dispute resolution system that is coupled to the computer network to resolve disputes between the users of the electronic marketplace; embedding uniform resource locators associated with the dispute resolution system within a hypertext markup language application for the website to enable users of the electronic marketplace to access the dispute resolution system from the electronic marketplace; and **displaying visual indicia within the website that are associated with users of the electronic marketplace, wherein the appearance of the visual indicia is related to data maintained by the online dispute resolution system that is related to use of the dispute resolution system by the users.**

5. The method of claim 4, wherein **displaying visual indicia comprises displaying symbols of trust.**

6. The method of claim 5, wherein **displaying symbols of trust comprise displaying medallions.**

7. The method of claim 4, wherein indicating within the electronic marketplace website the availability of a dispute resolution system comprises **indicating the availability of a dispute resolution system to resolve disputes between the users of the electronic marketplace by displaying to the users visual indicia associated with the dispute resolution system within the electronic marketplace.**

8. A method comprising: providing an electronic marketplace that is accessed by users via a computer network and enables the users to buy and sell items; and **indicating the availability of a dispute resolution system to resolve disputes between the users of the electronic marketplace by displaying to the users electronic visual indicia associated with the dispute resolution system within the electronic marketplace.**

9. The method of claim 8, further comprising: embedding uniform resource locators associated with the dispute resolution system within a hypertext markup language application for the website to enable users of the electronic marketplace to access the dispute resolution system from the electronic marketplace; **and displaying the visual indicia within the website that are associated with users of the electronic marketplace, wherein the appearance of the visual indicia is related to data maintained by the online dispute resolution system that is related to use of the dispute resolution system by the users.**

10. The method of claim 8, further comprising **displaying the visual indicia to indicate which of the users are members in the dispute resolution system.**

11. The method of claim 10, further comprising **controlling the appearance of the visual indicia based on data maintained by the dispute resolution system**

18. **A method for indicating to users of an electronic marketplace whether other users of the electronic marketplace participate in an online dispute resolution system comprising:** providing an electronic marketplace via a website that is accessed by users via a computer network and enables the users to buy and sell items; **displaying visual indicia received from the dispute resolution system and associated with users of the electronic marketplace that participate in the dispute resolution system within the website; and controlling the appearance of the medallions visual indicia as a function of data that is maintained by a server associated with the dispute resolution system and that relates to participation of the users of the electronic marketplace in the dispute resolution system.**

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19. The method of claim 18, **wherein displaying visual indicia comprises displaying the visual indicia within web pages associated with users of the electronic marketplace that participate in the dispute resolution system.**

20. The method of claim 18, **wherein displaying visual indicia comprises displaying symbols of trust.**

21. The method of claim 20, **wherein displaying symbols of trust comprise displaying medallions.**

There is no support for the language controlling the appearance of the visual indicia as a function of data received from the dispute resolution system for the users in **response to resolution of the disputes. The display is in response to whether the user is a participant or not.**

Collins discloses the following:

[0061] Figs. 7a and 7b show examples of screens presented to a party during Step 300 of Fig. 2 in an embodiment of the present invention. In Fig. 7a a case reference number is requested. If this is not provided by the party entering information a number is generated for the case. This number allows the parties to access case information including the negotiation log throughout the negotiation process. **In an alternative embodiment, a pull-down box on the template may be provided with a listing of the possible participating parties, such as, merchants or companies. This allows the customer to know whether the merchant/other party is bound to participate in negotiations or whether the consent of the other party is necessary before negotiations will begin.**

Thus, the Examiner asserts that Collins discloses a visual indicia indicates membership in the dispute resolution system.

Claim 63

Claim 63 discloses a method further comprising embedding uniform resource locators associated with the dispute resolution system with a hypertext markup language application for the website of the electronic marketplace to enable the users of

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the electronic marketplace to automatically access the dispute resolution system from the electronic marketplace and file disputes without manually entering the transaction data into the dispute resolution system. First, the Examiner request the appellant to direct the Examiner to where there is disclosure for the limitation of filing disputes without manually entering the transaction data. Secondly, the Examiner has provided evidence that it was known at the time of the applicant's invention to embed URLs in webpages.

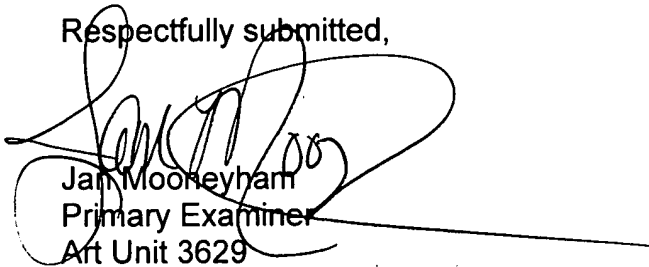
Third, the URL appears to be a hotlink that that takes the user to a registration form.

[0050] FIG. 4 is a diagram illustrating a process 240 whereby a seller can request coverage from the dispute resolution system. Upon receipt of a request to initiate coverage, the system of FIG. 1 provides the seller with a welcome page 242 where the seller can enter his or her user identification and password information. *If the user is new, the seller can enter a registration page 24 by clicking on a registration hotlink. Upon completing the registration process, the process of FIG. 4 notifies the seller of a successful registration and displays other relevant information in page 246 before looping back to the start of the process 240.*

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For the above reasons, it is believed that the rejections should be sustained.

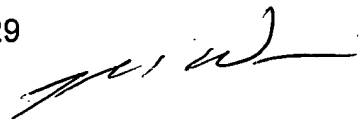
Respectfully submitted,



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